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International Court of Justice

H0024-0002

Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, The United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 18 December 1945, 1000-12:45 Lord Justice Lawrence, presiding.

COLONEL STOREY: If the Tribunal please, before adjourning yesterday afternoon your Honors properly asked a question or two about documents 3051 and 3063, to which I think I have an answer that will help the Tribunal.

Your Honors will recall, with reference to Document 3051-PS--I believe it might be of assistance to turn to that document.

THE PRESIDENT: Yes.

COLONEL STOREY: Your Honors asked yesterday afternoon, since this had to do with the SD and the SS, how the Party was involved, and I should like to quote paragraph numbered 1 on page 2 of the English translation, which answers this question.

That is, paragraph numbered 1 on page 2 of the English translation, and I am quoting:

"The Chiefs of the State Police, or their deputies, must get in telephonic contact with the political leaders (Gauleitung oder Kreisleitung) who have jurisdiction over their districts, and have to arrange a joint meeting with the appropriate inspector or commander of the Order Police to discuss the organization of the demonstrations. At these discussions the political leaders have to be informed that the German Police has received from the Reichsfuehrer SS and Chief of the German Police the following instructions, in accordance with which the political leaders should adjust their own measures."

That has to do with the preparation for the general Jewish uprisings.

Now, with reference to Document 3063, which follows just one or two documents below--

THE PRESIDENT (Interposing): What was the document?

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3063

COLONEL STOREY: Number 3036 was the next, just below that one, if Your Honor please.

THE PRESIDENT: Very well.

COLONEL STOREY: That, if you recall, Your Honor, was a report from the Supreme Court Justice Buch to the Defendant Goering concerning punishment for the uprisings that followed the 9th and 10th of November demonstration. I should like to quote the portion signed by the Defendant Goering. It is, I believe, the second page of the English translation.

It is dated: "Berlin, 22 February, 1939."

"Dear Party Member Buch:

"I thank you for forwarding the report of your special senate about the procedure hitherto concluded concerning the excesses on the occasion of the anti-Jewish operations of 9 and 10 November 1938, of which I have taken cognizance.

"Heil Hitler, yours, Goering."

And then, passing, Your Honor, to page number 1 immediately following, of the English translation, I think the next two paragraphs will answer Your Honor's question. I quote:

"On the evening of 9 November 1938, Reich propaganda director Party Member Dr. Goebbels told the Party leaders assembled at a social evening in the old town hall in Munich, that in the districts (Gauen) of Kurhessen and Magdeburg-Anhalt it had come to hostile Jewish demonstrations, during which Jewish shops were demolished and synagogues were set on fire. The Fuehrer, at Goebbels' suggestion, had decided that such demonstrations were not to be prepared or organized by the Party, but so far as they originated spontaneously, they were not to be discouraged either. In other respects, Party Member Dr. Goebbels carried out the purport of what was prescribed in the teletype of the Reich propaganda administration of 10 November, 1938.

"It was probably understood by all of the Party leaders present"--

THE PRESIDENT (Interposing): What does "12:30 to 1 o'clock" mean there?

COLONEL STOREY: That is the time of the teletype

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message, I assume, your Honor.

THE PRESIDENT: Yes.

COLONEL STOREY: "It was probably understood by all the Party leaders present, from the oral instructions of the Reich propaganda director, that the Party should not appear outwardly as the originator of the demonstrations but in reality should organize and execute them. Instructions in this sense were telephoned immediately -- thus a considerable time before transmission of the first teletype -- to the bureaux of their districts (Gaue) by a large part of the Party members present."

Now, your Honors properly asked, yesterday afternoon, how the Blockleiter would be affected. Your Honors will recall that in the instructions to the Blockleiter defining his offices it was stated that his instructions would be received orally and they would be transmitted orally, and never to use writing except in extreme cases. Therefore, I say that these quoted portions clearly indicate that the Party was in fact used in connection with these famous 9 and 10 November, 1938, anti-Jewish demonstrations.

Now, reverting back to the text where I left off yesterday afternoon:

The Leadership Corps of the Nazi Party participated in the confiscation of church and religious property.

I offer in evidence Document 072-PS, which is U.S. Exhibit 357, which is a letter dated 19 April 1941, from Reichsleiter Bormann to Reichsleiter Rosenberg. This letter exposes the participation of the Gauleiter in measures relating to the confiscation of religious property.

I now quote from the last paragraph of page 1 of the English translation of Document 072-PS, which reads:

"The libraries and art objects of the monasteries confiscated in the Reich were to remain for the time being in these monasteries, insofar as the Gauleiter had not determined otherwise."

On 21 February 1940, the Chief of the Security Police and SD, Heydrich, wrote a letter to Reichsfuehrer SS, Himmler, proposing that certain

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listed churches and monasteries be confiscated for the accommodation of so-called racial Germans.

The Tribunal, of course, will recall Himmler's position.

After pointing out that, on political grounds, outright expropriation of religious property would not be feasible at the time, Heydrich suggested certain specious interim actions with respect to the church properties in question, to be followed progressively by outright confiscation.

I now offer in evidence R-101A -- it is right towards the end of your Honors' exhibit -- as U.S. Exhibit 358.

If your Honors please, there are several of those documents under R-101, and at the bottom you will notice they are labeled "A", "B", and "C". The first one is R-101A, and I quote the first five paragraphs on page 2 of the English translation:

"Enclosed is a list of church possessions which might be available for the accommodation of Racial Germans. The list, which please return, is supplemented by correspondence and illustrated material pertinent to the subject.

"For political reasons, expropriation without indemnity of the entire property of the churches and religious orders will hardly be possible at this time.

"Expropriation with indemnity or in return for assignment of other lands and grounds will be even less possible.

"It is therefore suggested that the respective authorities of the Orders be instructed that they make available the monasteries concerned for the accommodation of Racial Germans and remove their own members to other less populous monasteries."

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There is a marginal note opposite this paragraph that, translated, means "very good."

"The final expropriation of these properties thus placed at our disposal can then be carried out step by step in course of time."

On 5 April, 1940, the Security Police and Security Service SS sent a letter to the Reich Commissar for the consolidation of Germandom, enclosing a copy of the foregoing letter from Heydrich to Himmler to 21 February, 1940, proposing the confiscation of church properties. The letter of 5 April, 1940 is included in the document R-101A, just introduced in evidence; and I quote from the second sentence of the first paragraph thereof, on page 1 of the English translation of Document R-101A. It is the first paragraph of page 1 of that same document.

I quote:

"The Reich leader SS has agreed to the proposals made in the enclosed letter and has ordered the matter to be dealt with by collaboration between the Chief of the Security Police and Security Service and your office."

If Your Honor please, I believe it is on page 1 of R-101A. It is from the second sentence of the first paragraph on R-101A. It is on the same one as the tab is, Your Honor.

THE PRESIDENT: Yes.

COLONEL STOREY: I now offer in evidence Document R-101C. Exhibit 358. This is a letter dated July 30, 1941, written by an SS Standartenfuehrer, whose signature is illegible, to the Reich Leader of the SS. The letter supplies further evidence of the participation of the Gauleiter in the seizure of church property. I quote from the first three paragraphs of the English translation of document R-101C--101C will be shown at the bottom of the page.

"Further to report of 30 May, 1941, this office considers it its duty to call the Reich Leader's attention to the development which is currently taking place in the incorporated Eastern countries with regard to seizure and confiscation of church property.

"As soon as the Reich laws on expropriation had been introduced, the Reich Governor and Gauleiter in the Wartheland adopted the practice of expropriating real estate belonging to churches for use as dwellings. He grants compensatio

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to the extent of the assessed value and pays the equivalent amount into blocked accounts.

"Moreover, the East German Estate Administration limited reports that in the Warthegau all real estate owned by the churches is being claimed by the local Gau administration."

I next offer in evidence Document R-101D, which immediately follows, Number 358, US Exhibit already in evidence. This is a letter from the Chief of Staff of the Main Office to Himmler, dated 30 March, 1942, dealing with the confiscation of church property. The letter evidences the active participatic of the Party Chancellery in the confiscation of religious property.

In this letter the Chief of Staff, Main Office, reports to Himmler concerning the policy of the SS in suspending all payment of rent to monasterie and other church institutions whose property had been expropriated. The letter discusses a proposal made by the Reich Minister of the Interior, in which the Party Chancery prominently participated, to the effect that the church institutions should be paid amounts corresponding to current mortgage charges on the premises without realizing any profit. The writer further suggests that such payments should never be made directly to the ecclesiastical institutions, but rather should be made to the creditors of such institutions.

I now quote from the fourth sentence on page 3 of that document:

"Such an arrangement would be in line with the basic idea of the settlement originally worked out between the Party Chancery and the Reich Minister of the Interior."

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I understand the Reich Minister of Interior for 1933-1944 was the Defendant Frick.

The Leadership Corps of the Nazi Party participated in the suppression of religious publications and interfered with free religious education.

In a letter dated 27 September, 1940, Reichsleiter and Deputy of the Fuehrer Bormann transmitted to the Defendant Rosenberg a photostatic copy of a letter from Gauleiter Florian, dated 23 September, 1940, which expressed the Gauleiter's intense disapproval, on Nazi ideological grounds, of a religious pamphlet entitled, "The Spirit and Soul of the Soldiers," written by a Major General von Rabenau.

I now offer in evidence Document 064-PS, US Exhibit 359. It is an original letter signed by Rosenberg attaching the copy of that matter. It contains Defendant Bormann's letter to Rosenberg, dated 27 September, 1940, transmitting the Gauleiter's letter of 23 September, 1940 to the Defendant Hess, in which the Gauleiter urges that the religious writings of General von Rabenau be suppressed. In his letter to the Defendant Hess, Gauleiter Florian discusses a conversation he had with General von Rabenau at the close of a lecture delivered by the General to a group of younger Army officers at Aachen. This conversation illumines the hostile attitude of the Leadership Corps of the Nazi Party towards the Christian churches. I quote from the second sentence of the second paragraph of the second page of the Gauleiter's letter to the Defendant Hess, which appears on page 2 of the English Translation--the second paragraph--and I quote:

"After he had affirmed the necessity of the churches, Rabenau said, with emphasized self-assurance, something like the following: 'Dear Gauleiter, the Party is making mistake after mistake in the business with the churches. Obtain for me the necessary powers from the Fuehrer and I guarantee that I shall succeed in a few months in establishing peace with the churches for all time.' After this catastrophic ignorance, I gave up the conversation.

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"Dear Party Member Hess: The reading of von Rabenau's pamphlet 'Spirit and Soul of the Soldier' has reminded me again of this. In this brochure, Rabenau affirms the necessity of the Church straightforward and clearly, even if it is prudently careful. He writes on page 28: 'There could be more examples; they would suffice to show that a soldier in this world can scarcely get along without thoughts about the next one.' Because von Rabenau is falsely based spiritually, I consider his activities as an educator in spiritual affairs as dangerous, and I am of the opinion that his educational writings are to be dispensed with absolutely and that the publication section of the NSDAP can and must renounce these writings. The churches with their Christianity are this danger against which the struggle must always be carried on."

That the Party Chancellery shared with the Gauleiter hostility to the Christian churches is further revealed by the defendant Bormann's instruction to the Defendant Rosenberg, set forth in Bormann's letter of transmittal that Rosenberg "take action" on the Gauleiter's recommendation that the General's writings be suppressed.

I now offer in evidence Document 089-PS, USA Exhibit No. 360, which is a letter from the Defendant Bormann, as Deputy of the Fuehrer, to the Defendant Rosenberg, dated 8 March, 1940, enclosing a copy of Bormann's letter of the same date to Reichsleiter Amann. Amann was a top member of the Leadership Corps by virtue of his position as Reichsleiter for the Press and Leader of the Party Publishing Company. In this letter to Amann, Bormann expresses his dismay and dissatisfaction that only 10 percent of the 3,000 Protestant periodicals in Germany have ceased publication for what are described as "paper saving" reasons. Bormann then advises Reichsleiter Amann that "The distribution of any paper whatsoever for

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such periodicals was barred."

I now refer to this document 089-PS, and I quote the second paragraph of Bormann's letter to Amann, which appears on the first page--the second paragraph--of the English translation;

"I urge you to see to it, in any redistribution of paper to be considered later, that the confessional writing, which, according to experiences so far gathered, possesses very doubtful value for strengthening the power of resistance of the people toward the external foe, receives still sharper restrictions in favor of literature, politically and ideologically more valuable."

I next offer in evidence Document 101-PS, U.S.A. Exhibit No. 361, which is a letter from the Defendant Bormann, again, to Reichsleiter Rosenberg, dated the 17th of January, 1940, expressing the Party's opposition to the circulation of religious literature to the members of the German Armed Forces. Among the soldiers of the United Nations, the proposition that there are no atheists in the fox-holes received a wide and reverent acceptation. However, in this document, there is a contrary meaning, and I quote from page 1 of the English translation, which reads:

"Nearly all the districts (that is Gaue) report to me regularly that the churches of both confessions are administering spiritually to members of the Armed Forces. This administering finds its expression especially in the fact that soldiers are being sent religious publications by the spiritual leaders of the home congregations. These publications are, in part, very cleverly composed. I have repeated reports that these publications are being read by the troops and thereby exercise a certain influence on the morale.

"I have, in the past, sought by sounding out the General Field Marshal, the High Command of the Armed Forces, and...Reich Director Amann, to restrict considerably the production and shipment of publications of this type. The result of these efforts remains unsatisfactory. As Reichsleiter Amann has repeatedly informed me, the restriction of these pamphlets by means of the... paper rationing has not been achieved because the paper...is being purchased on the open market.

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"If the influencing of the soldiers by the church is to be effectively combatted, this will only be accomplished by producing many good publications in the shortest possible time under the supervision of the Party...

"Thus at the last meeting of the Deputy Gauleiters, comments were uttered on this matter to the effect that a considerable quanity of such publications are not available.

"I maintain that it is necessary that in the near future we transmit to the Party Service Offices down to Ortsgruppenleitern a list of additional publications of this sort which should be sent to our soldiers by the Ortsgruppen..." End of quotation.

The Leadership Corps also participated in measures leading to the closing and dissolution of theological schools and other religious institutions. I now offer in evidence document No. 122-PS, USA Exhibit No. 362, which, again, is a letter from the Defendant Bormann to the Defendant Rosenberg, in his capacity as the Fuehrer's Representative for the Supervision of Spiritual and Ideological Schooling and Education of the NSDAP. This letter is dated 17th April, 1939, and transmits to Rosenberg an enclosed photostatic copy of a plan suggested by the Reich Minister for Science, Education and Training for the combining and closing of certain specifically listed theological faculties. In his letter of transmittal the Defendant Bormann requested Reichsleiter Rosenberg, to take "cognizance and prompt action" with respect to proposed suppression of religious institutions. I now quote from the next to last paragraph of page 2 of the English translation, in which the plan to suppress the religious institutions is summarized, and which reads:

"To recapitulate this plan would include the complete closing of the theological faculties at Innsbruck, Salzburg and Munich, the transfer of the faculty of Graz to Vienna, and the vanishing of four Catholic faculties; closing of three Catholic theological faculties or higher schools, and of four evangelical faculties in the Winter semester 1939/1940; closing of one further Catholic and of three further evangelical faculties in the near future."

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From the foregoing evidence, the inference is irrestible that the Leadership Corps of the Nazi Party shares a responsibility for the measures taken to subvert the Christian Churches and persecute the Christian clergy, both in Germany and in German-occupied territories of Europe. The evidence just offered, together with that previously presented by the Prosecution, demonstrates that there was general participation by the Leadership Corps, ranging from the Reichsleiter through the Gauleiter, adhered to by the rank anf file, in the deliberate program undertaken to undermine Christian religion. We stress the significance of the appointment of the Defendant Rosenberg, whose anti-Christian views are open and notorious, as the Fuehrer's 'delegate' or representative for the whole spiritual

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and philosophical education of the Nazi Party. It was precisely this position which gave Rosenberg his seat in the Reichsleitung, the Central staff of the Party comprising all the Reichsleiter. But emphasis is placed not merely upon the fact that anti-Christs, such as the Defendants Bormann and Rosenberg, held directive positions within the Leadership Corps, but upon the further fact that their directives and orders were passed down the chain of command of the Leadership Corps, and caused the participation of its membership in acts subversive of the Christian Church.

In Document No. D-75, which I believe has previously been introduced, and I'm just going to quote one line from it, the Defendant Bormann stated:

"Nazism and Christianity are irreconcilable concepts."

The Defendant Bormann was never more right, but he erred grievously by his prophesy as to which of the two would first pass away.

I next turn to the responsibility of the Leadership Corps for the destruction of the free trade unions, and the imposition of conspiratorial control over the productive labor of the German nation.

The evidence relating to the responsibility of the Nazi conspirators for the destruction of the independent trade unions has been previously introduced in evidence in the U.S.A. Exhibit G which was the document book containing the evidentiary materials relating to the destruction of the trade unions. The brief evidence, which I shall now present, is offered to prove the responsibility of the Leadership Corps of the Nazi Party for the smashing of the independent unions and the imposition of conspiratorial control over the productive labor capacity of the German nation.

Soon after their seizure of power, prominent members of the Leadership Corps participated in the smashing and dissolution of the independent trade unions of Germany. The Defendant Robert Ley, precisely by virtue of his office as Reich Organization Leader and Reichsleiter in the Leadership Corps, was directed by Hitler in mid-April 1939 to smash the independent unions.

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I will pass on over now to Document 392, U.S.A. Exhibit No. 326, and I quote, beginning at the top of page 1 of the English translation:

"On Tuesday, 2 May 1933, the coordination action of the free trade unions begins.

"The essential part of the action is to be directed against the General German Trade Union Federation and the General Independent Employees Federation.

"Anything beyond that which is dependent upon the free trade unions is left to the discretion of the Gauleiter's judgement.

"The Gauleiter are responsible for the execution of the coordination action in the individual areas. Supporters of the action should be members of the National Socialist Factory Cell Organizations.

"The Gauleiter is to proceed with his measures on a basis of the closest understanding with competent gau or regional factory cells directors.

"In the Reich, the following will be occupied:

The directing offices of the unions"

Then it lists a number of offices, and I previously quoted who was to be taken into protective custody.

The next provision:

"Exceptions are granted only with the permission of the Gauleiter.

"It is understood that this action is to proceed in a strongly disciplined fashion. The Gauleiter are responsible in this respect. They are to hold the direction of the action firmly in hand.

Heil Hitler!

(signed) Dr. Robert Ley".

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The defendant Ley's order for the dissolution of the independent trade unions was carried out as planned and directed. Trade union premises all over Germany were occupied by the SA and the unions dissolved. On the 2nd of May 1933, the official NSDAP Press Service reported that the National Socialist Factory Cells Organization (NSBO) had "eliminated the old leadership of Free Trade Unions" and taken over their leadership.

I now offer in evidence Document 2224-PS, U.S.A. Exhibit No.364, which are pages 1 and 2 of the 2nd of May 1933 issue of the National Socialist Party Press Agency. I quote from paragraph 5 of page 1 of the English translation:

> "National Socialism, which today has assumed leadership of the German working class, can no longer bear the responsibility for leaving the men and women of the German working class, the members of the largest trade organization in the world, the German Trade Union Movement, in the hands of a people who do not know a fatherland that is called Germany. Because of that, the National Socialist Factory Cell Organization (NSBO) has taken over the leadership of the trade unions. The NSBO has eliminated the old leadership of the trade unions of the General German Trade Unions League and of the General Independent Employees' Federation...
>
> On 2 May 1933, the National Socialist Factory Cell Organization (NSBO) took over the leadership of all trade unions; all trade union buildings were occupied and most stringent control has been organized over financial and personnel matters of the organization."

As shown by the evidence, the assult on the independent unions directed by the Defendant Ley, in his capacity as Reichsleiter in charge of Party Organization, assisted by the Gauleiter and Party Formations, included the seizure of trade union funds and property. In this connection I offer in evidence Document 1678-PS, U.S.A. Exhibit No. 365. This document is a report of a speech by Reichsleiter Ley on the 11th of September 1937, to the 5th annual session of the German Labor Front. In this speech, Ley shamelessly corroborates the confiscation of trade union funds. I quote from paragraph 4 of page 1 of the English translation:

> "Once I said to the Fuehrer: 'My Fuehrer, actually I am standing with one foot in jail, for today I am still the trustee of the comrades 'Leipart' and 'Imbusch', and should they some day ask me to return their money, then it will be

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found that I have spent it, either by building things, or otherwise. But they shall never again find their property in the condition in which they handed it over to me. Therefore I would have to be convicted.'

The Fuehrer laughed then and remarked that apparently I felt extremely well in this condition.

It was very difficult for us all. Today we laugh about it ....."

The plan of the Nazi conspirators to eliminate the Free Trade Unions was advanced by the enactment on 19th May, 1933, of a law which abolished collective bargaining between workers and employers, and replaced it with a regulation of working conditions by Labor Trustees appointed by Hitler. I refer to document 405-PS, which is the text of the law, 1933 RGBI, I, 285. After providing in Section 1 for the appointment by Hitler of trustees of labor, this law provides, and I quote from Section 2 of the English translation of document 405.

"Until a new revision of the social constitution, the trustees are to regulate the conditions for the conclusion of labor contracts. This practice is to be legally binding for all persons and replaces the system founded on combinations of workers, of individual employers or of combinations of employers ....."

Having destroyed the independent unions and collective bargaining, the next step of the Nazi conspirators was to secure the Nazification of the field of industrial relations. I refer to document No. 1861-PS, which is the text of the law of 20th January, 1934 RGBI, I, 45. This law was entitled the "Law Regulating National Labor," and it imposed the Leadership Principle upon industrial enterprisers and provided in Section I, paragraph 1, that the enterpriser should be the leader of the plant and the workers would "constitute his followers." I now quote from Section 1, paragraph 2 of the first page of document No. 1861-PS.

"The leader of the plant makes the decisions for the employees and laborers in all matters concerning the enterprise, as far as they are

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> regulated by this law. He is responsible for the well-being of the employees and laborers. The employees and laborers owe him faithfulness according to the principles of the factory community."

The Trade Unions having been dissolved and the leadership principle superimposed upon the relationship of management and labor, the members of the Leadership Corps joined in and directed measures designed to replace the independent unions by the German Labor Front, the DAF, an affiliated Party organization. On the very day the Nazi conspirators seized and dissolved the Free Trade Unions, the 2nd of May, 1933, they publicly proclaimed that a "united front of German workers" would be formed with Hitler as honorary patron at a worker's congress on the 10th of May, 1933. I quote from the next to the last paragraph of page 2 of document 2224-PS, which was a release of the Nazi Party Press Agency. USA 364

> "The National Socialist Party Press Agency is informed that a great workers' congress will take place on Wednesday, 10th May, in the Russian House of Lords in Berlin. The United Front of German workers will be formed there. Adolph Hitler will be asked to assume the position of Honorary Patron."

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The Nazi conspirators employed the German Labor Front, the DAF, as an instrument forpropagandizing its millions of compulsory members with Nazi ideology. The control of the Leadership Corps over the German Labor Front was assured not only by the designation of Reichsleiter of the Party Organization Ley as head of the DAF, but by the employment of a large number of Politischen Leiter or political leaders, charged with disseminating and imposing Nazi ideology upon the large membership of the DAF. I now cite Document 2271-PS, U.S.A. Exhibit No. 328, which is the Party Organization Book referred to yesterday, pages 185-187, and I quote from the first page of the English translation, the first paragraph:

> "The National Socialist Factory Cells Organization, (NSBO), is a union of the political leaders of the NSDAP in the German Labor Front.
>
> The NSBO is the carrier of the organization of the German Labor Front.
>
> The duties and responsibilities of the NSBO have passed over to the DAF.
>
> The political leaders who have been transferred from the NSBO to the German Labor Front guarantee the ideological education of the DAF in the spirit of the National Socialistic idea."

Now, if your Honor pleases, in addition to the evidence heretofore presented, the Prosecution submits that it is another evidence of crime that the Leadership Corps of the NSDAP was responsible for the plundering of art treasures by the Defendant Reichsleiter Rosenberg's Einsatzstab Rosenberg, and the definition of "Einsatzstab" is a "special staff," and I am told that the word "Einsatz" means "to give action to". In other words, it was a task force, a special staff.

This subject, diverting from the text, had been prepared in connection with the general subject of "Plundering of Art Treasures", and I shall now turn to the document books of the "Plundering of Art Treasures", because the citations now will be in this small book.

I now pass to Your Honors' Document Book "W", and, may I say, diverting from the text, that the trial address, which is very brief,

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and as I have been told by the Translating Division, has been translated into all four languages, and as I understand, Colonel Dostert will distributethem to all parties in their respective languages.

Also by way of explanation, in the beginning, there is one reference here to the plundering of art treasures in the occupied portion of Poland, which does not bear directly upon this subject, but does on the general conspiracy; and I thought, in the interest of time, that we might follow the presentation, because it is very brief.

May it please the Tribunal, the sections of the Indictment which are to be proved at this point, are those dealing with the plunder of public and private property, under Count One, The Common Plan or Conspiracy. It is not my purpose to explore all phases of the ordinary plunder in which the Germans engaged. However, I would bring to the attention of the Tribunal and of the world, the defendants' vast organized systematic program for the cultural impoverishment of virtually every community in Europe, and for the errichment of Germany thereby.

Special emphasis willbe placed on the activities of the Einsatzstab Reichsleiter Rosenberg, and the responsibility of the Leadership Corps in this regard is a responsibility that is shared by the Defendants Rosenberg, Goering, and Keitel, and by the defendant organizations, the General Staff, High Command, Gestapo, the Security Service and the SS.

Before I deal with the plunder of thecultural treasures by the Einsatzstab Rosenberg, I wish to reveal briefly the independent plundering operations, conducted in the General Government of occupied Poland by authority of the Defendant Goering, and under the supervision of Defendant Frank, the Governor General.

In October, 1939, Goering issued a verbal order to a Dr. Muehlmann, asking him to undertake the immediate securing of all Polish art treasures.

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Dr. Muehlmann himself gives evidence of this order in Document No. 3042, found in the Document Book last introduced, as US Exhibit 375.

THE PRESIDENT: Are the documents in Book W?

COL. STOREY: Book W; yes, sir.

THE PRESIDENT: I was asking whether the documents in Book W are placed in order of number in PS?

COL. STOREY: They are; yes, sir; and the first one is found on the first page. I beg your pardon; 3042 would be a numerical order toward the end, your Honor.

THE PRESIDENT: I have it. I was merely asking for general information.

COL. STOREY: These are consecutive. I would like to offer this affidavit and to read it in full. In short, it was obtained in Austria.

"Kajetan Muehlmann states under oath:

"I have been a member of the NSDAP since 1 April 1938. I was a Brigadier General (Oberfuehrer) in the SS.

"I was never an illegal Nazi.

"I was the special deputy of the Governor General of Poland, Hans Frank, for the safeguarding of art treasures in the General Government, October 1939 to September 1943.

"Goering, in his function as chairman of the Reich Defense Council, had commissioned me with this duty.

"I confirm that it was the official policy of the Governor General, Hans Frank, to take into custody all important art treasures which belonged to Polish public institutions, private collections and the Church. I confirm that the art treasures mentioned were actually confiscated, and it is clear to me that they would not have remained in Poland in case of a German victory, but they would have been used to complement German artistic property." Signed and sworn to by Dr. Muehlmann.

On the 15th of November 1939, Frank issued a decree, which is published officially in the Law of the General Government, and I ask the Court to take judicial knowledge. It's page E.800, art. 1, sec. 1. It's not in the document book. It is just a short quotation, of which

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we ask the Court to take judicial knowledge. Quoting:

"All movable and stationary property of the former Polish State will be sequestered for the purpose of securing all manner of public valuables."

In a further decree of 16 December 1939, appearing at page E.810 of the same publication, Frank provided that all art objects in public possession in the General Government were to be seized for the fulfillment of public tasks of common interest, insofar as they had not already been zeized under the decree of 13 November. The decree provided that, in addition to art collections and art objects belonging to the Polish State, there will be considered as owned by the public those private collections which have not already been taken under protection by the Special Commissioner, as well as all ecclesiastical art property.

On the 24th of September 1940, Frank decreed that all property seized on the basis of the decree of 15 November 1939 will be transferred to the ownership of the General Govérnment, and this decree is also found at page E.810 of the same publication.

It is impossible for me to furnish this Tribunal a complete picture of the vastness of the program for the cultural impoverishment of Poland, carried out pursuant to the directives, as I cannot read into the record the 500-odd masterpieces catalogued in Document 1233-PS, or the many hundreds of additional items catalogued in Document 1709. Now, Document 1233, which I hold in my hand, is a finely bound, beautifully printed catalogue, in which Defendant Frank proudly lists and describes the major works of art which he had plundered for the benefit of the Reich. This volume was captured by the Monuments, Fine Arts and Archives Division of the Third United States Army, and was found in Frank's home near Munich. The introductory page describes the thoroughness with which the General Government stripped Poland of its cultural possessions. That is quoted in Document 1233-PS.

THE PRESIDENT: Will you hand that up?

COL. STOREY: I am quoting now from the introductory page, the English translation, the first paragraph. I might say by way of explanation that that lists all of the valuable art treasures.

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THE PRESIDENT: Yes, Colonel Storey?

COL. STOREY: I just started to say this book lists the valuable art treasures by titles. I now quote from the introductory page:

"By reason of the decree of 16 December 1939 by the Governor General of the Occupied Polish Territories, the Special Commissioner for securing objects of art and culture was able to seize within six months almost all of the art objects of the country, with one exception: a series of Flemish Gobelins of the Castle of Cracow. According to the latest information, these are now in France, so that subsequent seizure will be possible."

Leafing through this catalogue, we find that it included references to paintings by German, Italian, Dutch, French and Spanish masters, rare illustrated books, Indian and Persian miniatures, woodcuts, the famous Veit-Stoss hand-carved altar (created here in Nurnberg and purchased for use in Poland), handicraft articles of gold and silver, antique articles of crystal, glass and

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porcelain, tapestries, antique weapons, rare coins and medals. These articles were seized, as indicated in the catalog, from public and private sources, including the National Museums in Cracow and Warsaw, the cathedrals of Warsaw and Lublin, a number of churches and monasteries, university libraries, and a great many private collections of Polish nobility.

I wish now to offer in evidence the catalog bearing our number 1233-PS. It is the one just introduced in evidence, and the Document bearing our number 1709-PS. This latter report,in addition to listing the 521 major items described in the catalog, lists many other items, though generally no less important from an artistic standpoint, and were considered by the Germans to be of secondary importance from the standpoint of view of the Reich.

It is interesting to note with what pains the Defendant Frank attempted to conceal his real purpose in seizing these works of art. The cover of the catalog itself states that the objects listed were secured and safeguarded. Strangely enough, it was found necessary to safeguard some of the objects by transporting them to Berlin and depositing them in the depot of the Special Deputy or in the safe of the Deutschebank, as is indicated on page 80 of Document 1709-PS, U.S. Exhibit 378. The items referred to as having been transported to Berlin are listed in the catalog of objects safeguarded as being numbers 4, 17, 27, 35, and so on. Thirty-one extremely valuable and world-renowned sketches of Albrecht Durer, taken from the collection of Lubomierski in Lemberg, were likewise safeguarded. At page 68 of this report, Dr. Muehlmann states that he personally handed these sketches to Goering, who took them to the Fuehrer at his headquarters.

Numerous objects of art, paintings, tapestries, plates, dishes, as well as other dinnerware, were also safeguarded by Frank, who had the Special Deputy deliver these objects to an architect for the purpose of furnishing the castle at Cracow and the Schloss Kressendorf, which were the residences of the Governor General. It was apparently Frank's belief that these items would be safer in his possession, used to grace his table and dazzle his guests, than they would be in the possession of the rightful owners.

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There is no doubt whatever that virtually the entire art possession of Poland was seized for the use of Germany, and would never have been returned in the event of German victory. Dr. Muehlmann, a noted German art authority, who directed the seizure program for the period of four years and was endowed by Frank with sufficient authority to promulgate decrees generally applicable throughout the territory, has stated the objectives of the program in no uncertain terms in the affidavit to which I have just referred.

So much for Poland.

I now direct the attention of the Tribunal to the activities of the Einsatzstab Rosenberg, an organization which planned and directed the looting of the cultural treasures of nearly all Europe. To obtain a full conception of the vastness of this looting program, it will be necessary to envision Europe as a treasure-house in which is stored the major portion of the artistic and literary product of two thousand years of Western Civilization. It will further be necessary to envision the forcing of this treasure-house by a horde of vandals, bent on systematically removing to the Reich these treasures, which are, in a sense, the heritage of all of us, to keep them there for the enjoyment and enlightenment of Germans alone. Unique in history, this art seizure program staggers one's imagination and challenges one's credulity. The documents which I am about to offer in evidence will present undeniable proof of the execution of the policy to strip the occupied countries of the accumulated product of centuries of devotion to art and the pursuit of learning.

May I digress here a moment and state that we are not going to offer all the documents and all the details, because our Soviet and French colleagues will offer a great many of the detailed documents in support of their case on War Crimes.

I now offer in evidence Document 136-PS, as US Exhibit 367. That is an order of Hitler dated the 29th of January 1940, which set into motion the art seizure program that was to envelop the continent. Here is the original. I call your Honors' attention to this original, being

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signed by Adolf Hitler, and I believe it is in the famous Jumbo type. I quote the order in its entirety. It is very short:

"The 'Hone Schule' is supposed to become the center for National Socialistic ideological and educational research. It will be established after the conclusion of the war. I order that the already initiated preparations be continued by Reichsleiter Alfred Rosenberg, especially in the way of research and setting up of the library.

"All sections of the Party and State are requested to cooperate with him in this task."

Although the above order makes no specific mention of the seizure of art properties, by the 5th of November 1940, the program had extended beyond its original scope to include the seizure of Jewish art collections.

I now offer in evidence Document 141-PS, which is a certified copy of an order signed by Goering, dated 5 November 1940, in which the Defendant Goering states, and I quote:

"In conveying the measures taken until now for the securing of Jewish art property by the Chief of the Military Administration, Paris, and the Einsatzstab Rosenberg, the art objects brought to the Louvre will be disposed of in the following way:

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"Those art objects about which the Fuehrer has reserved for himself the decision as to their use.

"2. Those art objects which serve to the completion of the Reichsmarshall's collection.

"3. Those art objects and library books, the use of which seem useful to the establishment of the higher institutes of learning, and which come tihin the jurisdiction of Reichsleiter Rosenberg.

"4. Those art objects which are suited to be sent to the German museums

Thus, early in 1940, eleven months after the initiation of the program for establishment of the library for ideological research, the original purpose had been expanded so as to include the seizure of art works, not only for the benefit of research, but for the delectation of the Fuehrer and Goering, and the enhancement of the collections of German museums.

Impelled as they were by the perfidious dream of subjugating a continent, the Nazi conspirators could not content themselves merely with the exploitation of the cultural riches of France, and rapidly extended their activities to the other occupied countries. I now offer in evidence Document No. 137-PS. That is a copy of an order signed by the Defendant Keitel, dated 5th of July 1940; and I should like to read that brief order in full.

"To:- Chief of Army High Command

Chief of the Armed Forces in the Netherlands.

"Reichsleiter Rosenberg suggested to the Fuehrer that:

1. The state libraries and archives be searched for documents valuable to Germany.

2. The Chancelleries of the high church authorities and lodges be searched for political maneuvers directed against us, and that the material in question be seized.

"The Fuehrer has ordered that this suggestion be followed and that the Gestapo, supported by the archivists of Reichsleiter Rosenberg, be put in charge of the researches. The Chief of Security Police, SS Gruppenfuehrer Heydrich, has been informed. He will communicate with the competent military commanders in order to execute this order.

"These measures will be executed in all regions of the Netherlands, Belgium, Luxembourg, and France occupied by us.

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"It is requested that subordinate services be informed.

"Chief of Army High Command:

"Signed KEITEL."

From the Netherlands, Belgium, Luxembourg and France the Linsatzstab's activities ultimately were expanded still further to Norway and Denmark. I now offer in evidence Document 159-PS, US Exhibit 380, which is a copy of an order signed by Utikal, Chief of the Einsatzstab, dated the 6th of June 1944, from which it is seen that a special mission of the Einsatzstab was sent to Norway and Denmark.

As the German Army penetrated to the east, the fingers of the Einsatzstab reached out to seize the cultural riches thus made available to them, and their activities were extended to the Occupied Eastern Territories, including the Baltic States and the Ukraine, as well as to Hungary and Greece I now offer in evidence Document 153-PS, US Exhibit 381, being a certified copy of a letter from Rosenberg to the Reichcommissioner for the East, and Reichcommissioner for the Ukraine, dated 27 April 1942. The subject of the letter is stated to be as follows:

"Formation of a Central Unit for the Seizure and Securing of Objects of Cultural Value in the Occupied Eastern Territories." In the last paragraph of that document, I quote:

"With the commissars of the Reich a special department within Department II (political) has been set up for a limited time for the seizure and securing of objects of cultural value. This office is under the control of the head of the main group of Einsatzstab of Reichsleiter Rosenberg for the occupied territories."

THE PRESIDENT: Perhaps this would be a good time to break off for ten minutes.

(A recess was taken from 1120 to 1130 hours.)

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Activities were initiated in Hungary as indicated by Document No. 158-PS, U. S. Exhibit 382, which I now offer in evidence. This was a copy of a message initialled by Utikal, Rosenberg's Chief of Staff. The first paragraph of this document states,

> "The Einsatzstab of Reichsleiter Rosenberg for the occupied territories has dispatched a Sonderkommando under the direction of Stabseinsatzfuehrer Dr. Zeiss, who is identified by means of his Service Book Number 187, for the accomplishment of the missions of the Einsatzstab in Hungary described in the Fuehrer's Decree of 1 March 1942."

I now offer into evidence Document No. 171-PS, U.S.A. Exhibit 383, an undated report on the "Library for Exploration of the Jewish Question". The 5th paragraph states,

> "The most significant book-collections today belonging to the stock of the Library for Exploration of the Jewish Question are the following:"

The 9th item of the list which follows refers to, "Book-collections from Jewish Communities in Greece (about 10,000 volumes)."

It was only natural that an operation conducted on so vast a scale, extending as it did to France, Belgium, the Netherlands, Luxembourg, Norway, Denmark, the Occupied Eastern Territories, the Baltic States, the Ukraine, Hungary and Greece, should call upon a multitude of other agencies for assistance. Among the agencies cooperating in the plunder program were several of those which stand indicted here as criminal organizations. The cooperation of the Wehrmacht High Command was demanded by the Hitler order of 1 March 1942 which I offer into evidence as our

document 149-PS, U.S.A. Exhibit 369, which is signed personally by Adolph Hitler and is also on the jumbo type. The order decrees the ideological fight against the enemies of National Socialism to be a military necessity and reaffirms the authority of the Einsatzstab Rosenberg to conduct searches and seizures of suitable material for the Hohe Schule. The 5th paragraph states,

"The measures of execution concerning the cooperation with the Wehrmacht are assured by the Chief of the OKW with the consent of the Reichsleiter Rosenberg."

While I am on that document, which is referred to later, I should like to read the other portions. I call attention of your Honors to the distribution. It is distributed to all duty stations of the armed forces, the Party, and the State. It says:

"Jews, Free-Masons and their associated, ideological enemies of National Socialism are responsible for the war which is now being waged against the Reich. The coordinated, ideological fight against these powers is a military necessity. I therefore charged Reichsleiter Rosenberg to carry out this task in cooperation with the chief of the OKW. His 'staff for special purposes' in the occupied territories is authorized to search libraries, record - offices, lodges and other ideological and cultural institutions of all kinds for suitable material and to confiscate the said material for the ideological tasks of the NSDAP and the later scientific researchwork of the 'Hohe Schule.' The same regulation applies to the cultural values, which are in possession of Jews, ownerless or not of unobjectionable origin."

The final passage is:

"The necessary measures within the territories of the East under the German Administration are determined by 'Reichsleiter' Rosenberg in his capacity as 'Reichsminister' for the occupied territories of the East.

"Signed: A. Hitler."

THE PRESIDENT: Col. Storey, I think the Tribunal would find it convenient, and it would save time, if the documents when they are referred to were read in full in so far as you want to read them, rather than returning to read one passage and then returning to a document later on.

COLONEL STOREY: Yes, sir. May I explain why that was, sir? I was trying to fit in this presentation with the Leadership Corp. It was quoted in two places and I didn't notice it until I started.

THE PRESIDENT: What I am saying is that I think it is easier to follow the documents if all the parts of the document which you wish to read are read at one time, rather than read one sentence, then come back to another sentence, and then possibly come back to a document for a third sentence. I don't know whether that will be possible for you to do.

COL. STOREY: We will try to work it out that way, sir.

THE PRESIDENT: Thank you.

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COLONEL STOREY: Cooperation of the SS and the SD is indicated in a letter from Rosenberg to Bormann dated 23 April 1941, Document No. 071-PS, U.S.A. Exhibit 311, which I now offer into evidence. This letter states in the fifth sentence of the first numbered paragraph:

> "It is understood that the confiscations are not executed by the regional authorities, but that this is conducted by the Security Service (SD) as well as by the police."

Further down in the same paragraph Rosenberg states:

> "It has been communicated to me in writing by a Gauleiter that the chief office of the Reich Security (RSHA) of the SS has claimed the following from the library of a monastery: The Catholic Handbook, Albertus Magnus; Edition of the Church Fathers; History of the Papacy by L. V. Pastor, and other works."

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The second and last paragraph of this letter states that:

"I should like to remark in this connection that this affair has already been executed on our side with Security Service (SD) in the most loyal fashion."

The defendat Goring was especially diligent in furthering the purposes of the Einsatzstab Rosenberg, a diligence which will be readily understood in view of the fact that he himself directed that second in priority only to the demands of the Fuhrer were to be "those art objects which served the completion of the Reichsmarshal's collection." That is Goering.

On May 1, 1941, Goring issued an order to all Party, State and Wehrmacht services, which I am now offering into evidence as 1117-PS, USA Exhibit 384 an original order bearing Goring's signature. This order requested all Party, State and Wehrmacht Services, and I now quote:

"...to give all possible support and assistance to the Chief of Staff of Reichsleiter Rosenberg's staff..the above-mentioned persons are requested to report to me on their work, particularly on any difficulties which might arise."

On 30 May, 1942, Goring claimed credit for a large degree of the success of the Einsatzstab. I offer into evidence a captured photostatic copy of a letter from Goring to Rosenberg, showing Goring's signature, which bears our No. 1015i-PS, which I offer in evidence as USA Exhibit 385. The last paragraph of this letter states as follows:

"...On the other hand I also support personally the work of the Einsatzstab wherever I can do so, and a great part of the seized cultural goods can be accounted for because I was able to assist the Einsatzstab with my organizations."

If I have tried the patience of the Tribunal with numerous details as to the origin, the growth and the operation of the art looting organization, it is because I feel that it will be impossible for me to convey to you a full conception as to the magnitude of the plunder without conveying to you first, information as to the vast organizational work that was necessary in order to enable the defendants to collect in Germany cultural treasures of staggering proportions.

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Nothing of value was safe from the grasp of the Einsatzstab. In view of the great experience of the Einsatzstab in the complex business of the organized plunder of a continent, its facilities were well suited to the looting of material other then cultural objects. Thus, when Rosenberg required equipment for the furnishing of the offices of the administration in the east, his Einsatzstab was pressed into action to confiscate Jewish homes in the west. Document No. L-188, which is USA Exhibit 386, and which I now offer into evidence is a copy of a report submitted by the director of Rosenberg's Office West, operating under the Ministery for the Occupied Eastern Territories. I wish to read at some length from this document and I call the Tribunal's attention to the third paragraph on page 3 of the translation.

"The Einsatzstab Reichsleiter Rosenberg was charged with the carrying out of this task, (that is: the seizure of art properties). In addition to this seizure of property, at the suggestion of the Director West of the Special Section of the Einsatzstab, it was proposed to the Reichsleiter that the furniture and other contents of the unguarded Jewish homes should also be secured and dispatched to the Minister for the Occupied Eastern Territories for use in the Eastern Territories."

The last paragraph on the same page states:

"At first all the confiscated furniture and goods were dispatched to administration of the Occupied Eastern Territories. Owing to the terror attacks on German cities which then began, and in the knowledge that bombed-out people in Germany ought to have preference over the eastern people, Reichminister and Reichsleiter Rosenberg obtained a new order from the Fuhrer according to which the furniture etc. obtained through the M Action was to be put at the disposal of bombed-out people within Germany."

The report continues with a description of the efficient methods employed in looting the Jewish homes in the west (top of page 4 of translation.)

"The confiscation of Jewish homes was carried out as follows: So-called confiscation officials went from house to house where no records were available of the addresses of Jews who had departed or fled as was the case, for instance, in Paris, in order to collect information as to abandoned Jewish homes...They drew up inventories of those homes and subsequently sealed them...

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"In Paris alone about twenty confiscation officials confiscated more than 38,000 homes. The transportation of the contents of these homes was completed with the entire car park of the Union of Parisian Removal Contractors who had to provide up to 150 trucks, 1200 to 1500 French laborers."

If your honor please, I am omitting the rest of the details of that report because our French colleagues will present the details later.

Looting on such a scale seems fantastic. But I feel I must refer to another statement: For though the seizure of the contents of over 71,000 homes and their shipment to the Reich in upwards of 26,000 railroad cars is by no means a petty operation; the quantities of plundered art treasures and books, and their incalculable value as revealed in the documents I am about to offer will make these figures dwindle by comparison.

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I next refer to the stacks of leather-bound volumes in front of me, to which the Justice referred in his opening statement.

These thirtynine volumes which are before me contain photographs of works of art secured by the Einsatzstab and are volumes which were prepared by members of the Rosenberg staff. All of these volumes bear our No. 2522-PS, and I offer them in evidence.

I am passing to your Honors eight of these volumes, so that each one of you -- they are all different -- might see a sample of the inventory. I call your Honors attention to the inside top page. Most of them have an inventory, in German, of the contents of the book, and then follows a true photograph of each one of these priceless objects of art, separated by fine tissue paper.

There are thirtynine of these volumes that were captured by our forces when they overran a part of southern-occupied German territory.

THE PRESIDENT: Is there anything known about the articles photographed here?

COL. STOREY: Yes, I will describe them later. I believe each one of them is identified in addition to the inventory.

THE PRESIDENT: I meant whether the articles, the furniture or pictures themselves, have been found.

COL. STOREY: Yes, sir, most of them were found in an underground cavern. I believe in the southern part of Bavaria, and these books were found by our staff in connection with the group of U.S. Army people who have assembled these objects of art and are now in the process of returning them to the rightful owners. That is where we got these books.

I should like to refer while your Honors are looking at these to just the aggregate totals of the different paintings. Here are the totals as shown by Document 1015b-PS, which is in the Document Book 1015b-PS. As they are totalled, I don't think Your Honors need to follow the document; you can continue looking at the books if you like.

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"Up to 15 July 1944 the following had been scientifically inventoried:

21,903 Art Works.

5,281 paintings, pastels, water-colors, drawings.
684 miniatures, glass and enamel paintings, books and manuscripts.
583 plastics, terra-cottas, medallions and placques,
2,477 articles of furniture of value to art history
583 textiles (Gobelins, rugs, embroideries, Coptic materials) majolica, ceramics, jewellery, coins, art objects made with precious stones).
1,286 East Asiatic art works (bronzes, plastics, porcelains, paintings, folding screens, weapons)
259 art works of antiquity (sculptures, bronzes, vases, jewellery bowls, cut stones, terra-cottas)."

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The mere statement that 21,903 art works have been seized does not furnish an adequate conception of their value. I refer again to the statement in the document thus quoted: The extraordinary artistic and material value of the seized art works cannot be expressed in figures, and that they are objects of such a unique character that their evaluation is entirely impossible. These thirty-nine volumes are by no means a complete catalogue. They present, at the most, pictures of about 2,500 of the art objects seized, and I ask you to imagine that this catalogue had been completed and in the place of thirty-nine volumes we had 350 to 400 volumes. In other words, if they were prepared in inventory form as these thirty-nine volumes to cover all of them, it would take 350 to 400 volumes.

We had arranged, your Honors, to project just a few of these on the screen but before we do that, which is the end of this part of the presentation, I should like to call your Honors' attention to document 015-PS. It is dated April 16, 1943. It is a copy of a letter from Rosenberg to Hitler. The occasion for the writing of this letter was the birthday of the Fuehrer, to commemorate which Rosenberg presented some folders of photographs of pictures seized by the Einsatzstab. I imagine, although we have no authentic evidence, that probably some of these were prepared for that occasion. In the closing paragraph of the letter, Document 015-PS, he says:

"I beg of you, my Fuehrer, to give me a chance during my next audience to report to you orally on the whole extent and scope of this art seizure action. I beg you to accept a short written intermediate report of the progress and extent of the art seizure action, which will be used as a basis for this later oral report, and also accept three copies of the temporary picture catalogues which, too, only show part of the collection you own. I shall deliver further catalogues which are now being compiled, when they are finished."

Rosenberg then closes with this touching tribute to the aesthetic tastes of the Fuehrer, tastes which were satisfied at the expense of a continent, and I quote:

"I shall take the liberty during the requested audience to give you, my Fuehrer, another twenty folders of pictures, with the hope that this short

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occupation with the beautiful things of art which are nearest to your heart will send a ray of beauty and joy into your revered life!"

THE PRESIDENT: Will you read all the passage that you began; five lines above that?

COLONEL STOREY: Just a moment, sir.

THE PRESIDENT: Beginning with the words, "These photos represent --

COLONEL STOREY: "These photos represent an addition to the collection of fifty-three of the most valuable objects of art delivered some time ago to your collection. This folder also shows only a small percentage of the exceptional work and extent of these objects of art seized by my service command, Dienststelle, in France, and put into a safe place in the Reich."

If your Honors please, at this time we would like to project on the screen a few of these photographs. The photographs of paintings which we are now about to project on the screen are taken from a single volume of the catalogue, and are merely representative of the many volumes of pictures of similar works. The other items, photos of which are to be projected, were picked from various volumes on special subjects. For example, the Gobelin tapestry which you are about to see is merely one picture from an entire volume of tapestry illustrat. Each picture that you will see is representative of a number of volumes of similar pictures, and each volume from which these single pictures were taken represents approximately a tenth of the total number of volumes which would be necessary to illustrate all the items actually plundered by the Einsatzstab. We will now have the slides; just a few of them.

This first picture is a portrait of a woman, painted by the Italian painter Palma Vecchio.

The next picture is a Portrait of a Woman, by the Spanish painter Velasquez.

This picture is a portrait of Lady Spencer, by the English painter Sir Joshua Reynolds.

This picture is a painting by the French painter Watteau.

This is a painting of the Three Graces, by Rubens.

This is a portrait of an Old Woman, by the famous painter Rembrandt.

This painting of a Young Woman, is by the Dutch painter van Dyck.

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Now, this picture is a sample of 16th century jewelry in gold and enamel, decorated with pearls.

This is a 17th century Gobelin tapestry.

This picture is of a Japanese painting from the catalogue volume on East Asiatic Art.

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This is an example of famous china.

This is a picture of a silver-inlaid Louis XIV cabinet.

The last picture is of a silver altar piece of the 15th or 16th century, of Spanish origin.

That is the last picture.

I all your attention again that each of the pictures you have just seen is merely representative of a large number of similar items illustrated in the thirty-nine volume catalogue, which is in itself only partially complete. There is little wonder that the Fuehrer's occupation with these beautiful things of art, which were nearest to his heart, should have sent a ray of beauty and joy into his revered life. I doubt that any museum in the world, whether the Metropolitan in New York, the British Museum in London, the Louvre in Paris or the Tretiakov Gallery in Moscow could present such a catalogue as this; in fact, should they pool their treasures the result would certainly fall short of the art collection that Germany amassed for itself, at the expense of the other nations of Europe. Never in history has a collection so great been amassed with so little scruple.

It is refreshing, however, to know that the victorious Allied armies have recovered most of such treasures, principally hidden away in salt mines, tunnels, and secluded castles, and the proper governmental agencies are now in the process of restoring these priceless works of art to their rightful owners.

I shall next refer to Document 154-PS, which is a letter dated the 5th of July 1942, from Doctor Lammers, Reichs Minister and Chief of the Chancellory, to the highest Reich authorities and services directly subordinate to the Fuehrer. This letter states and implements the Hitler order that was introduced in evidence, and explains that the Fuehrer delegated authority to Rosenberg's staff to search for and seize cultural property by virtue of Reichsleiter Rosenberg's position as representative of the Fuehrer for the supervision of the whole ideological and political education of the NSDAP.

The Tribunal will recall, however, that it is by virtue of holding this office that Defendant Rosenberg occupied a place within the

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Reichsleitung or Party Directorate of the Leadership Corps. That is U.S. Exhibit 370, and it is simply offered for the purpose of showing the address to the highest Reich authorities and services directly subordinate to the Fuehrer.

In a letter to the Defendant Bormann, dated the 23rd of April 1941, the Defendant Rosenberg protested against the arbitary removal by the SD and other public services--libraries, monastaries, and other institutions--and he proposed that in the claims by the SD and his representative, the final regulation as to the confiscation should be made by the Gauleiter. This letter has been offered previously as 071-PS, and I quote, beginning with next to the last sentence at the bottom of page one of the English translation--I am sorry, your Honor, that is in the other book, and I will--it is in that big book. I am sorry, this refers to the big book.

THE PRESIDENT: You cited 071 this morning.

COLONEL STOREY: Yes, sir, and I will forego that at the moment, your Honor, because it refers back to the other book. Finally, in connection with the presentation of this subject, I submit that the summary of evidence establishes that the defendants and their conspirators, Rosenberg and Bormann, acting in their capacity as political leaders of the Leadership Corps of the Nazi Party and as members thereof, participated in the conspiracy or common plan alleged in Count I of the Indictment, and committed acts constituting the crimes alleged. Accordingly, we submit (1) The Leadership Corps of the Nazi Party is a group or organization in the sense in which those terms are used in Article 9 of the Charter; (2) The defendants and their conspirators, Rosenberg, and Bormann, committed the crimes defined in Article 6 of the Charter, and in that capacity as members of the political leaders of the Leadership Corps of the Nazi Party.

It was at all times the primary and central design and purpose of the Leadership Corps of the Nazi Party to direct, engage, and participate in the execution of the conspiracy which contemplated and involved the commission of the crimes as defined in Article 6 of the Charter.

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And I should like now to call attention again to a chart which was identified in the beginning - I believe by Major Wallis - and it was taken from the book, "The Face of the Party"--taken from the publication which is entitled, "The Face of the Party". This chart emphasizes clearer than I can state the total and thorough control over the life of the German beginning at the age of ten at the bottom of the chart, and continuing through the various categories on up through.

Notice the age of ten to fourteen, the Jungvolk. Then it goes to the Adolph Hitler School on the right, twelve to eighteen. The Hitler Jugend, fifteen to eighteen. The SA; the NSKK; NSFK; nineteen to twenty. And then the labor service over at the left. And then again to the SA; SS; NSKK; NSFK; and then into the Wehrmacht, and on up through to the top box on the left of the top row of men, the political leaders of the

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NSDAP. And then finally all of those buildings up there, as I understand, are the academies of the NSDAP. And then finally at the top to the political leaders of the German Volk, showing the evolution. This is the final exhibit, and with that I close the presentation of the Leadership Corps. The next presentation is the Reich Cabinet, the Reichsregierung. We will take just a few moments; three or four moments.

If your Honors please, there is one thing Colonel Seay called my attention to. I simply refer to it for the record. In one of the previous documents, 090-PS, which is in the other document book, there was a statement that clearly established that the expenses of the Einsatzstab Rosenberg that is, the staff's operational expenses, were financed by the Nazi Party. Document 090-PS, which is already in evidence, and which I overlooked mentioning. If the Tribunal please, I now offer Document Book "X", which I believe has been passed to your Honors, and also we have prepared-- also, Colonel Dostert's staff has prepared a chart of the Reichsregierung in different languages, and I believe your Honors have copies. There is one copy here in German that I shall be glad to pass to counsel who are especially concerned with this case. They have one copy in German. I don't know who it is--

THE PRESIDENT: You mean counsel for the Reich Cabinet?

COLONEL STOREY: Yes, sir. May I say also by preliminary reference, that we examined the records in the collection office this morning, and only one letter of intervention has been filed in behalf of the Reichs Cabinet, and that was by the Defendant Keitel. As I understand, only one has been filed, and that was by the Defendant Keitel.

We will now consider the Reichsregierung. Some preliminary remarks about this group have already been placed before the Tribunal by Mr. Albrecht in his comments upon the Government chart. It will be necessary, however, for sake of coherence, to repear briefly some of the statements made by him, and therefore we beg the indulgence of the Tribunal

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The Reichsregierung, meaning Reich Cabinet, unlike most of the other groups named in the indictment, was not especially created by the Nazi party to carry out or implement its nefarious schemes and purposes. The Reichsregierung -- commonly referred to as the Cabinet -- had, before the Nazis came to power, a place in the constitutional and political history of the country. As with other cabinets of duly constituted governments, the executive power of the realm was concentrated in that body. The Nazi conspirators realized this only too well. Their aim for totalitarian control over the State could not be secured -- they realized -- except by acquiring, holding and utilizing the top level machinery of theState. And this they did. Under the Nazi regime the Reichsregierung gradually became a primary

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agent of the Nazi Party with functions and policies formulated in accordance with the objectives and methods of the Party itself. The institution of the Reichsregierung became--at first gradually and then with more rapidity--polluted by the infusion of the Nazi conspirators into the Cabinet. Many of them--16 to be exact--sit before you today in the dock. There was no plan, scheme or purpose--however vile or inhuman or illegal in any sense of the word--that was not clothed with the semblance of legality by the Nazi Reichsregierung. It is for that reason that we will ask this Tribunal--after the proof has been offered--to declare that body, as defined in the Indictment, to be a criminal organization. The proof will be divided into two main categories--the first of which will tend to establish the composition and nature of the Reichsregierung under the Nazis, as well as delineating briefly its functions and powers; while the second will tend to establish--and conclusively we believe--the reasons why the brand of criminality should be affixed to that group.

The term Reichsregierung literally translated reads "Reich Government". Actually, as we said, it was commonly taken to refer to the ordinary Reich Cabinet. In the Indictment the term Reichsregierung is defined to include, not only those persons who were members of the ordinary Reich Cabinet, but also persons who were members of the Council of Ministers for the Defense of the Reich and the Secret Cabinet Council. However, the really important subdivision of the three is--as the proof will show--the ordinary cabinet. Between it and the other two there was in reality only an artificial distinction. There existed, in fact, a unity of personnel, action, functions, and purpose that obliterated any academic separation. As used in the Indictment, the term "ordinary cabinet" means Reich Ministers, that is, heads of departments of the central government; Reich Ministers without portfolio; State Ministers acting as Reich Ministers; and other officials entitled to take part in meetings.

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I might state here that, altogether, there were 48 persons who held positions in the ordinary cabinet. Seventeen of them are defendants before the Tribunal. Bormann is absent. Of the remaining 31, eight are believed to be dead.

Into the ordinary cabinet were placed the leading Nazi collaborators, the trusted henchmen, and then, when new governmental agencies or bodies were created, either by Hitler or the cabinet itself, the constituents of these new bodies were taken from the roles of the ordinary cabinet.

In 1933, when the first Hitler cabinet was formed on the 30th of January, there were ten ministries that could be classified as departments of the central government. I have here a typed copy of the minutes of the first meeting of that cabinet. These were found in the files of the Reichs Chancellery and bear the typed signature of one Weinstein, who was described in the minutes as responsible for the protocol, the counsellor of the ministry. That document already appears in Document B, but I again refer the Tribunal to Page 4 of the translation, which is Document 351, as shown in your Document Book, and contains a list of those present.

THE PRESIDENT: 351-PS?

COLONEL STOREY: Yes, sir, 351-PS, US Exhibit 389.

The ten ministers referred to therein are set forth. They are -- and I read:

"Reichsminister Foreign Affairs, the Defendant Von Neurath; Reichsminister of the Interior, the defendant Frick; Reichsminister of Finance, von Krosigk; Reichsminister of Economy," and then I skip to the bottom of the page: "Reichsminister of Food and Agriculture, Dr. Hugenberg; Reichsminister of Labor, Seldte; Reichsminister of Justice --" No name is given. The post was filled two days later by Guertner; Reichs Defense Minister, von Blomberg; and the Reichs Postmaster General and Reichsminister for Transportation, von Eltz Ruebenach.

In addition, you will note that the defendant Goering was there as a Reichsminister. He had no portfolio then, and as Reichs Commissar

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for Aviation. Dr. Peregke was there as Reichs Commissar for Procurement of Labor. Two State Secretaries were present; Dr. Lammers of the Reichs Chancellery and Dr. Meissner of the Reichs Presidential Chancellery.

THE PRESIDENT: In the copy I have, the defendant Goering appears as the Reichs Minister for Aviation.

COLONEL STOREY: Yes, sir. I mentioned that he appears as Reichs Minister and as Reichs Commissar for Aviation.

THE PRESIDENT: I don't see that. Oh, I see. I was reading from the first two pages of the document. You were reading from page 4?

COLONEL STOREY: Yes.

THE PRESIDENT: Very well.

COLONEL STOREY: I am informed that the Ministry was created later, but it is given as Reichs Commissar for Aviation.

In addition, the defendant Funk was present as Reichs Press Chief, and the defendant von Papen was present as Deputy of the Reichs Chancellor and Reichs Commissar for the State of Prussia.

Not long after that date new ministries or departments were created into which leading Nazi figures were placed. On 13 March 1933 the Ministry of Popular Enlightenment and Propaganda was created. The decree setting it up appears in the 1933 Reichsgesetzblatt, Part I, page 104, our document 2029-PS.

I assume that the Court will take judicial notice of the laws and decrees, as we have mentioned in the previous proceeding.

The late Goebbels was named as Reich Minister of Popular Enlightenment and Propaganda. On 5 May 1933 the Ministry of Air; Reichsgesetzblatt 1933, Part I, page 241; our document 2089-PS. On 1 May 1934 the Ministry of Education. I refer to 1934 Reichsgesetzblatt, Part I, page 365, our document 2078-PS. On 16 July 1935 the Ministry for Church Affairs, 1935 Reichsgesetzblatt, Part I, page 1029, our document 2090-PS. The defendant Goering was made Air Minister; Berhard Rust, Gauleiter of South Hanover, was named Education Minister, and Hans Kerrl named Minister for Church Affairs.

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Two ministries were added after the war started. On 17 March 1940 the Ministry of Armaments and Munitions was established. 1940 Reichsgesetzblatt, Part I, page 513, our document 2091-PS. The late Dr. Todt, a high Party official, was appointed to this post. The defendant Speer succeeded him. The name of this department was changed to "Armaments and War Production" in 1943. 1943 Reichsgesetzblatt, Part I, page 529, our document 2092-PS. On 17 July 1941, when the seizure of Eastern territories was in progress, the

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Ministry for the Occupied Eastern Territories was created. The decree appointing the defendant Rosenberg to the post of Minister of this department has already been received in evidence as USA Exhibit 319.

During the years 1933 to 1945 one ministry was dropped--that of Defence, which was later called War. This took place in 1938 when on 4 February Hitler took over command of the whole Armed Forces. At the same time he created the "Chief of the Supreme Command of the Armed Forces" or, in other words, the Chief of the OKW. This was the defendant Keitel. The decree accomplishing this change is published in the 1938 Reichsgesetzblatt, Part I at page 111. It appears in our Document Book as 1915-PS, and I would like to quote a brief portion of that decree. It begins at the bottom of the second paragraph:

"He--"referring to the Chief of the Supreme Command of the Armed Forces--" is equal in rank to a Reichs Minister.

"At the same time, the supreme command takes the responsibility for the affairs of the Reichs Ministry of War, and by my order, the chief of the supreme command of the Armed Forces exercises the authority formerly belonging to the Reichs Minister."

Another change in the composition of the cabinet during the years in question should be noted. The post of vice-chancellor was never refilled after the defendant von Papen left on 30 July 1934.

In addition to the heads of departments that I have outlined, the ordinary cabinet also contained Reich Ministers without portfolio. Among these were the defendants Hans Frank, Seyss-Inquart, Schacht, after he left the Economics Ministry, von Neurath, after he was replaced as Ministry of the Interior. There were other positions that also were an integral part of the cabinet. These were the Deputy of the Fuehrer, the defendant Hess, and later his successor, the Leader of the Party Chancellery, the defendant Martin Bormann; the Chief of Staff of the SA, Ernst Roehm, for the seven months prior to his assassination; the Chief of the Reich Chancellery, Lammers, and as we have already mentioned, the Chief of the OKW, the defendant Keitel. These men had either the title of or rank of Reich Minister. I have already read portions of the law creating the Chief of the OKW where

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his importance in Cabinet affairs is delineated. The importance of the defendants Hess and Bormann will be soon expounded, while that of the Chief of the Reich Chancellery, Lammers will also soon become self-evident.

But there were others, such as State Ministers Acting as Reich Ministers. Only two persons fell within this category--the Chief of the Presidential Chancellery, Otto Meissner, and the State Minister of the Protectorate of Bohemia and Moravia, K. H. Frank. In addition, the Indictment names--as belonging to the ordinary cabinet "others entitled to take part in Cabinet meetings." Many governmental agencies were created by the Nazis between the years 1933 and 1945, but the peculiarity of such creations was that in most instances such new posts were given the right to participate in cabinet meetings. Here the list is long but significant. Thus, those entitled to take part in Cabinet meetings were the Commanders in Chief of the Army and the Navy; the Reich Forest Master; the Inspector General for Water and Power; the Inspector General of German Roads; the Reich Labor Leader; the Reich Youth Leader; the Chief of the Foreign Organization in the Foreign Office; the Reichsfuehrer SS and Chief of the German Police in the Reich Ministry of the Interior, the Prussian Finance Minister; and the Cabinet Press Chief.

These, then, were the posts and some of the personnel in the ordinary cabinet. They were all positions of such common knowledge and notoriety that the Tribunal can judicially notice. Further, they all appear on the chart, entitled "Organization of the Reich Government" which was authenticated by the defendant Frick and is in evidence as Exhibit USA No. 3, which Mr. Albrecht introduced on the second day of the trial. They are also provable by laws and decrees published in the Reichsgesetzblatt and by notices in the semi-official monthly publication entitled "Das Archiv" which was edited by an official of the Ministry of Popular Enlightenment and Propaganda--all of which are also within the judicial notice purview of this Tribunal.

Does Your Honor wish to adjourn at 12:45?

THE PRESIDENT: Yes, perhaps we had better.

(Whereupon at 1245 hours the hearing of the Tribunal adjourned to reconvene at 1400 hours.)

H0024-0050

Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, The United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 18 December 1945, 1400-1700, Lord Justice Lawrence, presiding.

COLONEL STOREY: If the Tribunal please, the persons who held these posts in the ordinary cabinet varied between the years 1933 to 1945. Although it is not encumbent upon us to prove who they were-since the group and not the individuals are under consideration--nevertheless their names are already before this Tribunal in the original governmental chart, USA Exhibit No. 3. Since it will be of interest to the Tribunal to see what persons--and 17 of them are defendants--held what positions in the Cabinet, a table has been prepared which lists all the departments and posts I have mentioned and the encumbents thereof during the years 1933 to 1945. The German equivalents of the titles are also shown and, with the permission of the Tribunal, I will now distribute this table to its members. Copies have likewise been filed in the Defendants' Information Center. The table also is annotated with citations to sources verifying the facts shown--all of which, however--were of common knowledge during the period in question.

Diverting from the text: This is simply prepared for the convenience of the Tribunal in connection with studying the briefs and the documents. As I said at the outset, the proof will show that there was only an artificial distinction between the ordinary cabinet, the Secret Cabinet Council and the Council of Ministers for the Defense of the Reich. This is evidenced in the first instance by the unity of personnel between the three subdivisions. Thus, on 4 February 1938, Hitler created the Secret Cabinet Council. If your Honors will refer to this big chart, you will notice under 1938, there is a red line pointing down to the Secret Cabinet Council created during that year. This decree appears in the 1938 Reichsgesetzblatt, Part I, at page 112. It is in our document book as Document 2031-PS and I should like to quote from this document.

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THE PRESIDENT: It is not in Book X, is it?

COLONEL STOREY: It is under the Laws and Decrees Section.

> "To advise me in conducting the foreign policy I am setting up a secret cabinet council.
>
> As president of the secret cabinet council, I nominate:
>
> Reichsminister Freiherr von NEURATH;
>
> As members of the secret cabinet council I nominate:
>
> Reichsminister of the Exterior von RIBBENTROP;
> Prussian Prime Minister, Reichsminister of the Air, Supreme Commander of the Air Forces, General Field Marshall Hermann GOERING;
> The Fuehrer's Deputy, Reichsminister Rudolf Hess;
> Reichsminister for the enlightenment of the people and of propaganda, Dr. Joseph GOEBBELS;
> Reichsminister and Chief of the Reichs Chancellery Dr. LAMMERS;
> The Supreme Commander of the Army, General Walther von BRAUCHITSCH;
> The Supreme Commander of the Navy, Grand Admiral Dr. (honorary) RAEDER;
> The Chief of the Supreme Command of the Armed Forces Lt Gen Wilhelm KEITEL".

It will be noted that every member was either a Reichsminister or, as, in the case of the Army, Navy and OKW heads, had the rank and authority of a Reich Minister.

On 30 August 1939, Hitler established the Council of Ministers for the Defense of the Reich or better known as the Ministerial Council. This was the so-called cabinet. The decree appears in the 1939 Reichsgesetzblatt, Part I, at page 1539. I now refer to Document 2018-PS of the Laws and Decrees from which I quote Paragraph 1:

> "(1) A Ministerial Council for Reich Defense shall be established as a standing committee out of the Reich Defense Council.
>
> "(2) The standing members of the Ministerial Council for Reich Defense shall include: General Field Marshall Goering as chairman; Fuhrer's Deputy (the defendant Hess); Commissioner General for Reich Administration (the defendant Frick); Commissioner General for Economy (the defendant Funk); Reich Minister and Chief of the Reich Chancellery, Dr. Lammers; Chief of the High Command for the Armed Forces (the defendant Keitel).

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"(3) The chairman may draw on other members of the Reich Defense Council including further personalities for advice."

Again it will be seen that all were also members of the ordinary Cabinet. But this use of the cabinet as a manpower reservoir from whom the trusted collaborators were selected becomes particularly poignant when we consider the actions of the Nazi conspirators which were not published in the Reichsgesetzblatt which were concealed from the world and which were part and parcel of their conspiracy to wage aggressive war. It will have been noted that the decree setting up the Ministerial Council contained this language the one to which I have just referred:

"A Ministerial Council for Reich Defense shall be established as a standing committee out of the Reich Defense Council."

There is evidence already before this Tribunal establishing the creation - by the Cabinet - on 4 April 1933 of this really secret war planning body. I refer the Tribunal to USA Exhibit #24, which appears in our Document Book as Document 2261-PS. That document contains the unpublished Reich Defense Law of 21 May 1935. As to the membership of that Council when first created, I have here a copy of the second session of the working committee of the delgates for Reich Defense, dated 22 May 1933 and signed by the Defendant Keitel. It appears in our Document Book as Document EC-177, USA Exhibit 390. The composition of the Reich Defense Council appears on page 3 of the original, and also page 3 of the translation:

THE PRESIDENT: I thought you were going to refer to 2261-PS

COLONEL STOREY: If your Honor please, I just referred to it as being an exhibit already in evidence, and that it was one of the unpublished Reich defense laws. That was the only purpose in referring to it.

THE PRESIDENT: All right. Where is it?

COLONEL STOREY: It is just this side of the Laws and Decrees, if your Honor please.

The quotation is from the top of page 3 of the translation, beginning at the top of the page:

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"Composition of the Reich Defense Council:

President: Reichs Chancellor. Deputy: Reichswehr Minister

Permament Members: Minister of the:

Reichswehr
Foreign Affairs
Interior
Finance
Economic Affairs
Public Enlightenment and Propaganda
Air
Chief of the Army Command Staff
Chief of the Navy Command Staff

Depending on the case: The remaining members, other personalities, e.g., leading industrialists, etc.,"

All but the Chiefs of the Army and Navy Command Staff were then component parts of the ordinary cabinet. The composition of this Defense Council was changed in 1938. I refer the Tribunal to USA Exhibit #36, which appears in our Document Book as No. 2194-PS. This contains the unpublished Reich Defense Law paragraph 10, entitled, "The Reich Defense Council, of 4 September 1938.

I now quote from paragraph 10, entitled "The Reich Defense Council", which is found at page 4 of the copy of the law in the original, and I now quote from page 6 of the English translation at the top of the page:

(2) The leader and Reich Chancellor is chairman in the RVR. His permanent deputy is General Field Marshal Goering. He has the right to call conferences of the RVR. Permanent members of the RVR are

The Reich Minister of air and supreme commander of the air force,
the supreme commander of the army,
the supreme commander of the navy,
the chief of the OKW.

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The deputy of the leader
the Reich Minister and chief of the Reich Chancellory,
the president of the secret cabinet council
the chief plenipotentiary for the Reich administration,
the chief plenipotentiary for economics,
the Reich minister of foreign affairs,
the Reich minister of the interior
the Reich finance minister
the Reich minister for popular enlightenment and propaganda
the president of the Reich Bank directory

The other Reich ministers and the Reich offices directly subordinate to the leader and Reich chancellor are consulted if necessary. Further personalities can be called as the case demands."

THE PRESIDENT: Colonel Storey, it would help me if you explained what conclusions you are asking us to draw from these documents.

COLONEL STOREY: If your Honor please, we were trying to show the progressive domination of the Reich Cabinet by the Defendants, and the members of this group, so that, as your Honors will see as we later go ahead, that they could pass laws and decrees secretly, by circulatory process, or at the will, in effect, of the Defendants. I realize it is a little detailed, but we are trying to show the composition and how it was set up, and the conclusions will be drawn later.

By that time the supreme commanders of the Army and Navy had been given ministerial rank and authorized to participate in cabinet meetings. I cite 1938 Reichsgesetzblatt, Part I, Page 215.

May we at this time call the attention of the Tribunal to two member of the Defense Council who also appear in the Ministerial Council under the same title -- The Plenipotentiary for Administration and the Plenipotentiary for Economy. The former post was held by the defendant Frick while the latter was first held by the defendant Schacht and then by the defendant Funk who signed the decree in that capacity. These facts are verified by the defendant Frick on USA Exhibit No. 3 which is the Nazi governmental organization chart previously referred to.

As we will later show, these two posts had many of the other ministries subordinated to them for war planning aims and purposes. They together with the Chief of the OKW formed a powerful triumvirate that is

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shown in the three boxes down from 1935 to 1938 known as the "3-Man College" which figured prominently -- as the proof will disclose -- in the plans and preparations to wage aggressive war. And the encumbent of those positions were cabinet members -- the defendants Frick, Funk and Keitel.

This utilization of the ordinary cabinet as a supply center for other governmental agencies and the cohesion between all of said groups is perhaps quickly seen on the chart which is shown.

The points I have been making are illustrated on the chart. We are not offering this chart in evidence although all facts there-on displayed have been already proved or will be proven. The chart is also designed to depict (to the left of the line running down the right center) the chronological development of the offshoots of the ordinary cabinet. Thus, in the main box entitled "Reich Cabinet" (which appears directly under Hitler) certain dates appear.

I believe I will skip the part that describes those lines because it is self-evident.

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The Ministerial Defense Council was created in 1944 -- the Delegate for Total War Effort, Goebbels. These agencies were, next to Hitler, important Nazi functionaries. And in every case, as the chart shows, they were occupied by personnel taken from the ordinary cabinet. The arrow running from the Reich Defense Council to the Ministerial Defense Council is intended to reflect the fact shown previously that the latter was formed out of the former. We will, for other points of this presentation, refer again to the chart -- especially that portion to the right which relates to Ministries.

The unity, cohesion, and interrelationship of the sub-divisions of the Reichsregierung was not the result of a co-mixture of personnel alone. It was also realized by the method in which it operated. The ordinary cabinet consulted together both by meetings and through the so-called circulation procedure. Under this procedure, which was predominantly used when meetings were not held, drafts of laws prepared in the individual ministries were distributed to the other cabinet members for approval or disapproval.

The man primarily responsible for the circulation of drafts of laws under this procedure was Dr. Lammers, the Leader and Chief of the Reich Chancellery. I have here an affidavit executed by him concerning that technical device which we offer in evidence as U.S.A. Exhibit 391. It appears in our Document Book as Document 2999-PS. I should like to read all of it:

"I, Hans Heinrich Lammers, being first duly sworn, depose and say:

"I was Leader of the Reich Chancellery from 30 January 1933 until the end of the war. In this capacity I circulated drafts of proposed laws and decrees submitted to me by the Minister who had drafted the law or decree, to all members of the Reich Cabinet. A period of time was allowed for objections, after which the law considered as being accepted by the various members of the Cabinet. This procedure continued throughout the whole war. It was followed also in the Council of Ministers for Defense of the Reich."

"and signed "Dr. Lammers."

and sworn to before Colonel Hinkel.

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As an illustration of how the circulation procedure worked I have here a memorandum dated 9 August 1943, which bears the facsimile signature of the defendant Frick, and is addressed to the Reich Minister and Chief of the Reich Chancellery. Attached to the memorandum is a draft of the law in question and a carbon copy of a letter dated 22 December 1943 from the defendant Rosenberg to the Reich Minister of the Interior, containing his comments on the draft. I now offer Document 1701-PS, as USA Exhibit 392; and I call your Honors' attention to the big red border around the inclosure.

The quoted portion is from page one of the translation, and page one of the original. Quoting:

"To the Reich Minister and Chief of the Reich Chancellery.

in Berlin W8.

"For the information of the other Reich Ministers.

Subj: Law on the treatment of enemies of the society.

In addition to my letter of 19 March 1942.

Enclosures. 55.--

After the draft of the law on the treatment of enemies of the society has been completely re-written, I am sending the enclosed new draft with the consent of the Reich Minister of Justice, Dr. Thierack, and ask that the law be approved in a circulatory manner. The necessary number of prints is attached."

The same procedure was followed in the Council of Ministers when that body was created. And the decrees of the Council of Ministers were also circulated to the members of the ordinary Cabinet.

I have here a carbon copy of a memorandum found in the files of the Reich Chancellery, and addressed to the members of the Council of Ministers, dated 17 September 1939, and bearing the typed signature of Dr. Lammers, Reich Minister and Chief of the Reich Chancellery. It is document 1141-PS, USA Exhibit No. 393. Document 1141-PS from the English translation, a copy of the last paragraph just above Dr. Lammers' signature, and I quote:

"Matters submitted to the Council of Ministers for the Reich Defense have heretofore been distributed only to the members of the Council. I have been requested by some of the Reichministers who are not permanent members of the council to inform them of "the drafts of decrees which are being submitted to the Council, so as to enable them to check these drafts from the point of view of their respective offices. I shall follow this request so that all the Reichsministers will in future be informed of the drafts of decrees which are to be acted upon by the Council for the Reich Defense. I therefore request to add forty-five additional copies of the drafts, as well as of the letters which usually contain the arguments for the drafts, to the folders submitted to the Council."

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Von Stutterheim, who was an official of the Reich Chancellery, comments on this procedure at page 34 of a pamphlet entitled "Die Reichskanslei", which I now offer in evidence as document 2231-PS --

THE PRESIDENT: Colonel Storey, I don't understand the importance of the last paragraph.

COLONEL STOREY: The last document, Your Honor, please, is in further evidence of the approval of the laws, and of the passing of the laws by a circulatory process.

THE PRESIDENT: We already got Dr. Lammers' affidavit.

COLONEL STOREY: It might be considered strictly accummulative, if that is what Your Honor has in mind.

THE PRESIDENT: If it is accummulative, we don't really want to hear it.

COLONEL STOREY: Yes. I will ask then it be stricken from the record. I really overlooked the fact that it was accummulative. Miss Grover and Commander Kaplan tell me the document No. 2231 is probably al so corroborative of the same process, and I will, therefore, not offer it.

I have already stated the cabinet for some time they actually consulted together through actual meetings. The Council of Ministers did likewise, but those members of the Cabinet who were not already members of the Council al attended the meetings of the Ministerial Council. And where they did not attend in person, they were usually represented by the state secretaries of the Ministries. We have here the minutes of six meetings of the Council of Ministers as of 1, 4, 8, and 19 September 1939. These original documents were found in the files of the Reichs Chancellery. I offer them in evidence as Document 2852-PS, USA Exhibit No. 395. It will only be necessary to point out for our purposes at this time a few of said minutes. I call the attention of the Tribunal to the meeting held on 1st of September 1939, which is probably the first meeting since the council was created, on 30th August, 1939, and I read from that document, showing who was present. We are getting at the top of the English translation:

"Present were the permanen t members of the Council of Ministers for the Reich Defense: The Chairman a nd Generalfield Marshall, Goering; The Deputy of the Fuehrer, Hess (for some unknown reason a line appears through the name Hess), and

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and Plenipotentiary for Reich Administration, Dr. Frick; the Plenipotentiary for Economy, Funk; the Reich Minister and Chief of the Reich Chancellery, Dr. Lammers; and the Chief of the High Command of the Armed Forces, Keitel represented by Major General Thomas."

These were regular members of the Council. Also present was the Reich Minister for Food and Agriculture, Darre, and seven state secretaries, naming the secretaries. These State Secretaries were from the several Ministries, or other Supreme Reich Authorities, as for example: Körner was the Deputy of the Defendant Goering in the Four-year Plan; Stuckart was in the Ministry of the Interior; Landfried was in the Ministry of Economics; Syrup was in the Ministry of Labor. These Ministers appear on the government chart which is already in evidence. Now the meeting of the Council, I will skip that one.

THE TRIBUNAL: (Mr. Biddle): Colonel Storey, the last document shows only

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certain members of the cabinet were at the cabinet meeting?

COLONEL STOREY: Yes. It shows no more than that. I am going on a little further, and show that the SS Gruppenfuehrer was present also, and that other people were present.

MR. BIDDLE: What does that show?

COLONEL STOREY: In other words, that they called in these subordinate people, as in the meeting of the Ministers.

MR. BIDDLE: What would that show?

COLONEL STOREY: Well, it does show the promulgation of the party, and the subordinate agencies, showing they could use this Reich Cabinet for any purposes they wanted, and to devise laws any way they wanted to. They called in these subordinate people, in these subordinate positions, to stay with them where they were passing cabinet measures. I can also call Your Honors attention to the fact to these Ministerial Council For Defense. The cabinet supposed to be a Ministerial ranking cabinet meeting, and as I just started to show, they called in the SS Gruppenfuehrer Heydrich in this meeting.

THE PRESIDENT: There would be no doubt but that there was a Reich cabinet.

COLONEL STOREY: No, sir.

THE PRESIDENT: And that the Reich Cabinet made decrees by this circulatory method. There is no doubt about that.

COLONEL STOREY: All right, sir.

THE PRESIDENT: What does this document have to do with that?

COLONEL STOREY: Showing who participated, and how they were there in their party rank, and I will admit the rest with reference to these other individuals.

THE PRESIDENT: Ample evidence we have had before who formed the Reich Cabinet.

COLONEL STOREY: Yes. Well, I will skip the rest with reference to other people who participated, and for the record just skip over to page 23. Before leaving these minutes, and as indicative of the activities

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of the Reichsregierung, I would like to ask the attention of the Court to some of the decrees passed, and minutes discussed at these meetings. At the first meeting of 1st September 1939, fourteen decrees were ratified by the Council. Of this group I call the attention of the Tribunal to decree No. 6, appearing on page 2 of the translation, and I quote:

THE PRESIDENT: I don't think you gave us the number.

COLONEL STOREY: I beg your pardon, sir, page 23. It is the Reichsgesetzblatt No. 1, page 1681, of which we ask the Tribunal to take judicial notice. That decree was about the organization of the administration, and about the German safety police in the Protectorate of Bohemia and Moravia. That appears in translation of 2052 (1852(1)) in the one that was passed there, dated 19 September 1938, on page 6 of the translation, and I quote from the bottom of the page of number six:

> "The Chairman of the Council, Generalfieldmarshall Goering, made comments regarding the structure of civil administration in the occupied Polish territory. He expressed his intentions regarding the economic evacuation measures in this territory. Then the questions of decreasing wages, and the questions of working hours, and the support of members of families of inducted workers were discussed." Unquote

There are a number of miscellaneous points of discussion appearing and in paragraph 2 of the Minutes, I quote the following, as it appears on page number 6: "The Chairman of the Council ..." No. It is on page 7:

> "The Chairman directed that all members of the Council regularly received the situation reports of the Reichsfuehrer SS. Then the question of the population of the future Polish Protectorate was discussed and the placement of Jews living in Germany." Unquote.

Finally, I call the attention of the Tribunal to the Minutes of the meeting of 15 November 1939, page 10 of the translation; where among other things, the "treatment of Polish Prisoners of War" also was discussed.

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We submit that this document not only establishes the close working union between agencies of the State, and the Party, especially with the notorious SS, but also tends to establish, as charged in the Indictment, that the Reichsregierung was responsible for the policies adopted, and put into effect by the government, including those which comprehended, and involved the commission of the crimes referred to in the Indictment. But more working alliances would be meaningless unless there was power. And the Reichsregierung had thepower. Short of Hitler himself -- it had practically all the power a government can exercise. The prosecution has already offered evidence on how Hitler's Cabinet, and the other Nazi conspirators, secured the passage by the Reichstag of the "Law for the Protection of the People and the Reich", 24 March 1933, which has been previously referred to in our document 2001-PS, which law vested the Cabinet with legislative powers even to the extent of deviating from previously existing constitutional law, how such powers were retained even after the members of the cabinet were changed, and how the several states, provinces, and municipalities, which had formerly exercised semi-autonomous powers, were transformed into mere administrative organs of the central government. The ordinary cabinet emerged all-powerful from this rapid succession of events. The words of the defendant Frick are eloquent upon that achievement. I have an article of his which he wrote for the 1935 National Socialist Year Book, an article in document No. 2380-PS, which I

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offer in evidence, and I quote from page 213 of the original, and it is on page one of the English translation, the second paragraph:

"The relationship between the Reich and the States has been put on an entirely new basis, never known in the history of the German people. It gives to the Reich cabinet (Reichsregierung) unlimited power, it even makes it its duty to build a completely unified leadership and administration of the Reich. From now on, there is only one national authority: The one of the Reich. Thus, the German Reich has become a unified state, and the entire administration in the states in only carried out by order, or in the name of the Reich. The state borders are now only administration, technical are boundaries, but no longer boundaries of sovereignty.

"In calm determination, the Reich Cabinet (Reichsregierung) realizes step by step, supported by the confidence of the entire German people, the great loning of the Nation. The creation of the National socialist German unified state."

THE PRESIDENT: Colonel Storey.

COLONEL STOREY: Yes, Sir?

THE PRESIDENT: That document is to me still merely accummulative. You have established, and other counsel on behalf of the United States Government have established that the Reich Ministers had power to make laws, and the question is whether you have given any evidence as to the criminal nature of the Reich Cabinet.

COLONEL STOREY: Your Honor please, again it was concluded for the purpose of including one of the defendants here.

THE PRESIDENT: What I was trying to find out, it was merely accumulative.

COLONEL STOREY: Yes, all right, sir. It may be strictly accumulative. I have the next one, and I will admit the next reference, which will probably also be accumulative, and turn over to the beginning with the word in the back of the text --

THE PRESIDENT: The same document, you mean?

COLONEL STOREY: No, sir. There is another document I am going to offer, 2849. There is a quotation from another book, probably bearing on the same

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point. I will admit it also. The next has reference to the Ministerial Council, being given legislative power. I don't believe that that has been introduced before. That Council was given legislative powers. That is in Article 2 of the decree of 30 August 1939, our document 2018-PS; the ordinary cabinet continued to legislate throughout the war. This next document, if the Court please, it may be not necessary to read. It generally shows the above agencies continued to legislate side by side, and it really would be accumulative evidence. There were others that possessed legislative powers. Hitler, of course, had legislative power. Goering, as Deputy of the Four-year Plan, could and did issue decrees that had the effect of law. And the Cabinet delegated power to issue laws, which could deviate from existing law, to the Plenipotentiaries of Economy and Administration, and the Chief of the OKW, to the so-called 3-Man College, the 3-Man College having authority to legislate. This was done in the war planning law - the Secret Defense Law of 1938, USA Exhibit No. 36, our document 2194-PS. These three officials, Frick, Funk and Keitel, were also members of the Council of Ministers, as well as being part of the ordinary cabinet. It can, therefore, be readily said, in the language of the Indictment that the Reichsregierung possessed legislative powers of a very high order in the system of the German government, and that they exercised such powers as in part already has been demonstrated. I simply refer to that to show it was simply concentrated cabinet law, without quoting. That the executive and administrative powers of the Reich were concentrated in the Central Government primarily as the result of two basic Nazi laws that reduced the separate states (called Länder) to mere geographical divisions. Your Honor, please, these laws are cited, and I believe it would be accummulative evidence if I undertook to chronicallize the laws. I now pass to the part at the bottom of page 29. There were other steps taken towards the centralization, but those two laws were the fundamental ones for the purpose. Let us see therefore what powers the ordinary cabinet could wield as a result. We have here a periodical published in 1944 which was edited by Dr. Wilhelm Stuckert, State Secretary in the Reich Ministry of the

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Interior, and Dr. Harry V. Rosen-v Hoewel, another official with the title of "Oberregierungstate", in the Reich Ministry of the Interior. It is entitled "Administration Law," and I offer it in evidence as exhibit 2959-PS. It details the powers and functions of all the ministires of the ordinary cabinet from which I will select but a few to illustrate the extent of control vested in the Reichsregierung. The quotation is from page 2 of the translation, and page 66 of the original. "The Reich Ministers. There are at present twenty-seven Reich Ministers, namely:"

May I say that the only purpose in offering this is to show what each Minister had jurisdiction over, and to what his authority extended, for example, the Reich Minister for Foreign Affairs, it details what he handles. The Reich Minister of the Interior follows in detail on the matters extrusted to his jurisdiction, and so on.

THE PRESIDENT: Colonel Storey, may I ask you what has that to do with criminality in the Reich Cabinet?

COLONEL STOREY: The point is as I see it, though it can be deemed accummulative, Your Honor, is to show how these defendants, and the others were

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for forming a cabinet, forming the ministries, to form committees, councils, so that they could give the semblance of legality to any act they determined to take advantage of, whether they were in session or not, and according to the dictates of the respective Ministers, in other words, showing a complete domination.

THE PRESIDENT: I suppose that was in there too.

COLONEL STOREY: All right, I'll pass to further references. I'll skip over the rest of the law, and go to page 35 of the record in reference to criminality, and particular crimes. I now come to the second phase of the proof against the Reichsregierung, that tending to establish its criminal characteristics. As the proof on all phases of the prosecutions' case is received, the Tribunal will note more and more the relationship such evidence bears to the Reichsregierung, and their resultant responsibility therefor. Here, we will direct the court's attention to some predominant elements of the evidence that brands this group. First, it cannot be stressed too frequently, that under the Nazi regime the Reichsregierung became the criminal instrument of the Nazi Party. In the original Cabinet of 30 January 1933, there were only three cabinet members, who were members of the Party: Goering, Frick, and of course, Hitler. I have already shown that as new Ministries were added to the Cabinet, prominent Nazis were placed at their head. On January 30, 1937, Hitler executed acceptance into the Party of those Cabinet members who were not already members of the Nazi Party. This action is reported in the Volkischer Beobachter, South German Edition, 1 February 1937, and this document No. 2964-PS I quote from, paragraphs 3 and 4, No. 2964-PS of the English translation:

> "In viewof the anticipated lifting of the ban for party membership, the Fuehrer, as the first step in this regard, personally carried out the enlistment into the party of the members of the Cabinet who so far had not belonged to it, and he handed them simultaneously the Gold Party Badge, the supreme badge of honor of the party.
> In addition, the Fuehrer awarded the Gold Party Badge to Generaloberst Freiherr von Fritsch, Generaladmiral Dr. - h.c. Raeder; the Prussian Minister of Finance, Professor Popitz; and the Secretary of State and Chief of the Presidential Chancellery, Dr. Meissner. The Fuehrer also honored with the gold party badge the party members State Secretary Dr. Lammers, State Secretary Funk, State Secretary

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Funk, State Secretary Koerner, and State Secretary General of the Airforce Milch." Unquote.

It was just possible to refuse the party membership thus conferred. Only one man did this, von Eltz-Rubenach, who was the Minister of Pots, and Minister of Transport at the time. I have here an original letter, dated 30 January 1937, from von Eltz Rubenach to Hitler, and it is his own personal handwriting. I offer it in evidence as document 1534-PS. I desire to offer it as USA 402, and I quote the entire document No. 1534-PS:

"Berlin, W.8. 30 January 1937,
Wilhelm Street, 79.

"My Fuehrer:

I thank you for the confidence you have placed into me during the four years of your leadership, and for the honor you do me in offering to admit me to the party.

My conscience forbids me however, to accept this offer. I believe in the principles of positive christianity, and must remain faithful to my Lord, and to myself. Party membership however would mean that I should have to face without contradiction, the steadily aggravating attacks by party officers on the Christian confessions and those who want to remain faithful to their religious convictions.

This decision has been infinitely difficult for me. For never in my life have I performed my duty with greater joy and satisfaction than under your wise state leadership.

I ask to be permitted to resign.

With German Greetings:
Yours very obediently,
(signed)
Baron von Eltz. "

But the Nazis didn't wait until all members -

THE PRESIDENT: Was anyone else permitted to resign?

COLONEL STOREY: Yes, but the Nazis didn't wait until all members, as I understand, Your Honor, of the cabinet were party members. Every one of them, each member did, except this one, and he declined and resigned, which was accepted. And the Nazis didn't wait until all members of the cabinet were party members. Shortly after it came to power it quickly assured itself of active participation in the work of the cabinet. On 1 December 1933, the cabinet passed a law securing the unity of party and state. That has been introduced previously and I will not refer to it any more. This refers to our document No. 1395.

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THE PRESIDENT: Why is Eltz but no one else shown in the year 1938 as a member of the cabinet, in 1938?

COLONEL STOREY: Your Honor, please, the 1938 simply referred to the time the Secret Cabinet and Council were created. It does not have to do with when any of these people came to the cabinet.

THE PRESIDENT: I see.

COLONEL STOREY: in other words, all these arrows show what these different a encies were.

THE PRESIDENT: Yes, I follow it.

COLONEL STOREY: As created during those years.

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I say for your Honors' information, that in this list of all the cabinet members and the members of the Reicheregierung, from 1933, his name is shown in the list that we handed to your Honors.

THE PRESIDENT: Up to 1937?

COL. STOREY: No, sir; from 1933 clear to 1945 his name is listed. If your Honors will recall, we handed in a separate list and it does contain the Baron's name and with the authorities of his appointment, and so forth.

THE PRESIDENT: You mean, that is a mistake?

COL. STOREY: No, sir; it is not a mistake.

THE PRESIDENT: He didn't resign?

COL. STOREY: He did resign, but your Honors asked if his name was shown up here and I said that in the separate list showing this list of all members of the Reicheregierung, from 1933 to 1945, the Baron's name was included and the proper reference is made in this separate list for your Honors' information.

I have here a copy of an unpublished decree signed by Hitler and dated 27 July 1934. It is Document D-138, USA Exhibit 403, and it is in the section headed "Laws and Decrees," if your Honors please, and I offer it in evidence. This is a decree of Adolf Hitler:

> "I decree that the Deputy of the Fuehrer, Reich Minister Hess, will have the capacity of a participating Reich Minister in connection with the preparation of drafts for laws in all Reich Administrative spheres. All legislative work is to be sent to him when it is received by the other Reich Minister concerned. This also applies in cases where no one else participates except the Reich Minister making the draft. Reich Minister Hess will be given the opportunity to comment on drafts suggested by experts.
>
> This order will apply in the same sense to legislative ordinances. The Deputy of the Fuehrer in his capacity of Reich Minister can send as representative an expert on his staff. These experts are entitled to make statements to the Reich Ministers on his behalf.
>
> (signed) Adolph Hitler"

The Defendant Hess himself has some pertinent comment to make regarding his right of participation on behalf of the party. I now offer in evidence Document D-139. This is an original letter dated 9 October 1934, on the stationery of the NSDAP, addressed to the Reich Minister for Enlightenment of the People and Propaganda, signed

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by Hess. I now quote the entire document:

"By a decree of the Fuehrer dated 27 July 1934, I have been granted the right to participate in the legislation of the Reich as regards both formal laws and legal ordinances. This right must not be rendered illusory by the fact that I am sent the drafts of laws and decrees so late and am then given a limited time, so that it becomes impossible for me to deal with the material concerned during the given time. I must point out that my participation means the taking into account of the opinion of the NSDAP as such, and that in the case of the majority of drafts of laws and decrees, consult with the appropriate departments of the Party before making my comment. Only by proceeding in this manner can I do justice to the wish of the Fuehrer as expressed in the decree of the Fuehrer of 27 July 1934.

I must therefore ask the Reich Ministers to arrange that drafts of laws and decrees reach me in sufficient time. Failing this, I would be obliged in future to refuse my agreement to such drafts from the beginning and without giving the matter detailed attention, in all cases where I am not given a sufficiently long period for dealing with them.

Heil,
(signed) R. Hess".

A handwritten note appears attached to the letter. It reads and I quote from page 2 of the translation:

"Berlin, 17 October 1935.

1. The identical letter seems to have been addressed to all Reich Ministers. In our special field the decree of 27 July 1934 has hardly become applicable so far. A reply does not seem called for.

2. File in file 7B (?)

(signed) "R" "

The participating powers of Hess were later broadened. I now refer to Document D-140, U.S.A. Exhibit 405, and it is a letter dated 12 April 1938 from Doctor Lammers to the Reich Ministers. I offer it in evidence and quote from the English translation, paragraph 3:

"The Deputy of the Fuehrer will also have participation where the Reich Ministers give their agreement to the State Laws and legislative ordinances of States under paragraph 3 of the first decree concerning reconstruction of the Reich of Feb 2nd 1934 (Reich Law Gazette I 81). Where the Reich Ministers have already, at an earlier date been engaged in the preparation of such laws or legislative ordinances, or have participated in such preparation, the Deputy of the Fuehrer likewise becomes participating Reich Minister. Laws and legislative decrees of the Austrian State are equally affected hereby.

(signed) Dr. LAMMERS"

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THE PRESIDENT: Colonel Storey, may I ask you what those three documents are supposed to prove?

COL. STOREY: In the first place, your Honor, the one I just referred to shows that they passed laws over conquered territory. That one related to Austria. The one signed by Hess, just before, gives him almost unlimited power as regards to both formal and legal ordinances and over administrative districts and in addition, I think, your Honor, the most important point is that Hess says "you must send them to me long enough in advance so that I may consult with the Party and the appropriate Party members and get their reaction."

THE PRESIDENT: Is that relied upon as evidence of criminality, that he took the trouble to find out information of this sort?

COL. STOREY: I think it is a part of the general conspiracy showing the domination of Party and State by the Nazi Party and particularly the leadership corps.

THE PRESIDENT: I thought I had already said that it appeared to us -- and I think I speak on behalf of all the Tribunal -- that that matter had been amply proved and that we wished you to turn to criminality of the Reich Cabinet.

COL: STOREY: May I assume, your Honor, that we need offer no further proof that the Party itself had to do with the making of these laws as suggested by the Defendant Hess? I thought it was incumbent upon us to prove that the Party dominated this cabinet and particularly the leadership corps.

THE PRESIDENT: You are dealing now with the Reich Cabinet, and I think the Tribunal is satisfied that the Reich Cabinet had full powers to make laws.

COL: STOREY: I think that we go a little step further and undertake to show, if we have not already shown, that the way and manner in which they did it by consulting the Party was criminal. Now, I have some other laws to cite here in corroboration of that but if the Tribunal is satisfied, I don't see any use to cite them.

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THE PRESIDENT: I don't think the Tribunal would imagine that they made laws without consulting somebody. Perhaps it would be a convenient time to break off for ten minutes.

(A recess was taken from 1515 to 1530 hours).

COL: STOREY: If your Honors please, when we adjourned we were speaking of these laws that had been passed, and certainly I do not want to offer any cumulative evidence or any that is not necessary. I therefore am briefly referring to the laws which we propose to offer now.

The Party, as your Honors will recall, had 25 fundamental points which they had set out to achieve, as introduced in evidence yesterday. Those points, your Honors will recall, related to everything from the abrogation of the Treaty of Versailles and St. Germain to the obtaining of greater living space, and so forth.

Now, we propose to cite to your Honors various decrees and laws passed by this Cabinet carrying into effect what we contend were the criminal purposes of the Party, and that, therefore, the Reich Cabinet was asked by the Party to give semblance of legality to their alleged criminal purposes. That is the only reason we expect to chronicle or to mention the laws that were passed in pursuance thereof. And I shall proceed as your Honors suggest and simply list a group of the laws that seek to establish the so-called 25 points of the Nazi Party. Perhaps, with your Honors' permission, I will just refer to a few of them as being indicative of the type of laws that were passed to further their 25 points.

For example, in implementation of this point the Nazi Cabinet enacted, among others, the following laws:

The law of February 3,1938, concerning the obligation of German citizens in foreign countries to register. That is cited in the Reichs-gesetzblatt.

The law of the 13th of March 1938, relating to the reunion of Austria with Germany --

THE PRESIDENT: Don't go too fast. What was that?

COL. STOREY: The law of March 13, 1938 for the reunion of Austria

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with Germany.

THE PRESIDENT: Were those laws passed by the Reich Cabinet?

COL. STOREY: Yes.

THE PRESIDENT: Well, aren't you going to cite the laws?

COL. STOREY: Yes, but I was going to show them as illustrative, and that is the 1938 Reichsgesetzblatt, Part I, page 237.

The law of November 21, 1938 for the reintegration of the German Sudetenland with Germany, 1938, Reichsgesetzblatt, Part I, page 1641.

The incorporation of Memel-land into Germany, March 23, 1939, Part I, page 559, of the 1939 Reichsgesetzblatt.

With reference to Point 2 --

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THE PRESIDENT: Will you give me the place where the 25 points are set out? Have you got a reference to that?

COLONEL STOREY: Yes, Sir; it appears in Document 1708-PS, in Document Book A.

THE PRESIDENT: Thank your.

COLONEL STOREY: And I believe we referred to it yesterday.

THE PRESIDENT: That is sufficient.

COLONEL STOREY: Yes, Sir.

Now, as an illustration, Point 2 of that Party platform -- which, as your Honors will recall, demanded the cancellation of the Treaties of Versailles and St. Germain -- the following acts of the Cabinet in suppor of this part of the program may be mentioned:

Proclamation of October 14, 1933 to the German people concerning Germany's withdrawal from the League of Nations and the Disarmament Conference, 1933 Reichsgesetzblatt, Part I, Page 730.

Law of March 16, 1935, for the establishment of the Wehrmacht and compulsory military service; 1935, Reichsgesetzblatt, Part I, Pages 369 to 375.

Now, with reference to Point 4 of the Party, which said:

"Only those who are members of the 'Volk' can be citizens. Only those who are of German blood, without regard to religion, can be members of the 'Volk'. No Jew, therefore, can be a member of the 'Volk'."

That is Point 4. Among other Cabinet laws which implement this point was the law of July 14, 1933 for the recall of naturalization and deprivation of citizenship of these people; 1933, Reichsgesetzblatt, Part I, Page 480.

The law of April 25, 1933 restricting the number of non-Aryans in schools and higher institutions of learning; 1933, Reichsgesetzblatt, Part I, Page 225.

The law of September 29, 1933, excluding persons of Jewish blood from the peasantry; 1933, Reichsgestzblatt, Part I, Page 685.

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Another one, March 19, 1937, excluding Jews from the Reich Labor Service; 1937, Reichsgesetzblatt, Part I, Page 325.

There is another one of July 6, 1938, prohibiting Jews from participating in six different types of businesses; 1938, Reichsgesetzblatt, Part I, Page 823.

Point 23 of that platform proclaimed:

"We demand legislative action against conscious political lies and their broadcasting through the press."

To carry out this point I give a few of the Cabinet law that were passed. One of September 22, 1933, which established the Reich Culture Chamber; 1933, Reichsgesetzblatt, Part I, Page 661.

One concerning editors, of October 4, 1933, 1933, Reichsgesetzblatt, Part I, Page 713.

Another one with reference to restrictions as to the use of the theater, on May 15, 1934.

THE PRESIDENT: The use of what?

COLONEL STOREY: Theater; shows. 1934, Reichsgesetzblatt, Part I, Page 411.

THE PRESIDENT: What is the date of that?

COLONEL STOREY: May 15, 1934.

Now, passing from those illustrative laws, the ordinary cabinet, in fact, enacted most of the legislation which set the stage for and put into execution the Nazi conspiracy described under Count One of the Indictment. Many of these laws have been referred to previously by the Prosecution. All the laws I shall refer to and to which I have referred were enacted specifically in the name of the Cabinet. A typical introductory paragraph reads, and I quote:

"The Reich Cabinet has enacted the following law which is hereby promulgated." In other words, that shows it is a Cabinet law.

THE PRESIDENT: That applies to all the ones you have just given us?

COLONEL STOREY: Yes, sir. That is a typical heading

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In connection with the acquiring of control of Germany under Count One of the Indictment, I refer to some of the following laws.

Here is a law of the 14th of July, 1933 against the establishment of new parties. I believe I referred to that yesterday. That is 1933, Reichsgesetzblatt, Part I, Page 479.

Another of 14 July 1933 providing for the confiscation of property of Social Democrats and others; 1933, Reichsgesetzblatt, Part I, Page 479.

I have already referred to that law of 1 December 1933, which consolidated the Party and State, which is found in 1933, Reichsgesetzblatt Part I, Page 1016. In the course of consolidating the control of Germany these laws were enacted, and I give a few illustrations:

21 March 1933, creating special courts. That is in 1933, Reichsgesetzblatt, Part I, Page 136. Law of the 31st of March 1933 for the integration of all of the States into the Reich.

THE PRESIDENT: Integration of what?

COLONEL STOREY: 1933, Reichsgesetzblatt, Part I, Page 153.

THE PRESIDENT: Will you repeat that, integration of what?

COLONEL STOREY: Integration of the States -- that

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is, separate States into the Greater Reich.

Here is one of 30th June, 1933, eliminating non-Aryan civil servants or civil servants married to non-Aryans: 1933, Reichsgesetzblatt, Part I, Page 433.

The law of 24th April, 1934, creating the People's Court, 1934, Reichsgesetzblatt, Part I, page 341. And that was the same Court your Honors saw functioning in one of the movies exhibited last week.

The law of 1st August, 1934, uniting the office of President and Chancellor, 1934, Reichsgesetzblatt, Part I, page 747. I am not introducing all of them or referring to all of them.

Here is a law of 18th March, 1938, that provides for the submission of one list of candidates to the electorate for the entire Reich: Reichsgesetzblatt, 1938, Part I, page 258.

Nazi extermination of political internal resistance in Germany through the purge of their political opponents and through acts of terror, which are set forth in Paragraph III (d) 3 (b) of Count I was facilitated or legalized by the following Cabinet laws, translations being found in Document Book F, which has previously been submitted. I will just refer to a few of these as they are translated in that book.

Here is one of 14th July, 1933, that prohibits the establishment of new Parties and contains a penal clause. That is found in 1933, Reichsgesetzblatt, Part I, page 479. Here is one of 20th December.

THE PRESIDENT: You have already given us that one.

COLONEL STOREY: I believe so, yes, Sir.

Here is a law of the 3rd of July, 1934, concerning measures for emergency defense of the State, and which legalized their own purge. That is in 1934, Reichsgesetzblatt, Part I, page 529.

Law of 20th December, 1934, on treacherous acts against the State and Party and for the protection of the Party uniforms, 1934, Reichsgesetzblatt, Part I, page 1269.

Here is one of 24th April, 1934, that makes the creation of new or continuation of existing political Parties an act of treason, 1934

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Reichsgesetzblatt, Part I, page 341.

Here is one of 28th June, 1935, that changes the Penal Code, 1935 Reichsgesetzblatt, Part I, page 839.

Here is the final one I will mention: 16th September, 1939, permitting second prosecution of an acquitted person before a Special Court, the members of which were named by Hitler; 1939, Reichsgesetzblatt, Part I, page 1841.

Now, next are some laws that related to the extermination of the Trade Unions, which I have already cited, and they are in Document Book G. I will not refer to them. Then the laws abolishing collective bargaining. I have referred to those. I will pass them.

In fact, even the infamous Nuremberg laws of September 15th, 1935, although technically passed by the Reichstag, were nevertheless worked out by the Ministry of the Interior. This is verified by the work of Dr. Franz A. Medicus, entitled "Ministerial-dirigent," published in 1940. It is Document 2960-PS, USA Exhibit 406. I would like to refer to the paragraphs at page 62 of the original publication, and translated in our Document 2960-PS.

2960-PS, beginning the first paragraph:

> "The work of the Reich Ministry of Interior forms the basis for the three 'Nurnberg Laws' passed by a resolution of the Reichstag on the occasion of the Reich party meeting of Freedom.
>
> "The 'Reich Citizenship Law' as well as the 'Law for the protection of German blood and German honor' opened extensive tasks for the Ministry of Interior not only in the field of administration. The same applies to the 'Reich Flag Law' that gives the foundation for the complete reorganization of the use of the flag."

A few decrees of the Council of Ministers which similarly supplied the legal basis for the criminal

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acts and conduct of the conspirators, about whichthe Tribunal has already heard and will hear more, relate to those of August 5, 1940, which imposed a discriminatory tax on Polish workers in Germany; and that is in 1940, Reichsgesetzblatt, Part I, Page 1077.

Also the law of 4 December 1941, which imposed penal measures against the Jews and Poles in eastern occupied countries; 1941 Reichsgesetzblatt, Part I, Page 759.

The last one was concerning the employment of Eastern workers, which I referred to this morning.

Almost immediately upon Hitler's coming into power, the cabinet commenced to implement the Nazi conspiracy to wage aggressive war. Three of the documents that establish this point have already been introduced in evidence. They are EC-177, 2261-PS, and 2194-PS, respectively. Document EC-177, which is USA Exhibit 390, is a long copy of the minutes, and I beg the indulgence of the Tribunal for referring to it again, EC-177 --

THE PRESIDENT: Is it in this book?

COLONEL STOREY: Yes, sir, EC-177.

THE PRESIDENT: Is it after the D's or before the D's?

COLONEL STOREY: Before the D's.

Your Honors, I didn't intend to quote from that. I am simply referring to it as being the minutes of the second session of the working committee of the delegates for Reich Defense, and being signed by the Defendant Keitel.

Document 2261 consists of a letter dated 24th of June 1935, 2261-PS. That transmits a copy of a secret, unpublished Defense Law of 21 May 1935, and also a copy of a decision of the Reich Cabinet of the same date in the Council for the defense of the Reich. These have been previously introduced, but they are illustrative laws passed by this Cabinet.

Document 2194 also transmits a copy of the secret, unpublished, Reich Defense Law, 4 September 1938.

(I will skip down to the laws passed by the Reich Defense Council on Page 50, for the record.)

The Reich Defense Council was a creation of the cabinet. On 4 April 1932, it was decided to form that agency. The decision of the Cabinet, atta to Document 2261-PS, which is U.S. Exhibit 24, page 4 of the translation,

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paragraph 1, proves that fact. The two secret laws contained in Document 2261, as well as 2194, were passed by the Cabinet; nor was this a case of one group setting up an entirely distinct group to do its dirty work. The cabinet put itself into the picture. This might have been a difficult task to accomplish before the Nazis assumed power - but with the Nazis in control, things could move swiftly, and I now refer again to Document EC-177, but I will not undertake to quote from that (although the quotation is set out here).

There is only one point in that connection which would not be cumulative. It is page 5 of the translation and page 8 of that original of EC-177, on the question of security and secrecy, that I think would be pertinent to the criminal nature.

I quote: "Question has been brought up by the Reich Ministries, The secrecy of all Reich Defense Work has to be maintained very carefully. Communications with the outside by messenger service only, has been settled already with the Post Office, Finance Ministry, Prussian Ministry of the Interior and the Reichswehr Ministry.

"Main Principle of Security: No document must be lost, since otherwise, the enemy propaganda would make use of it. Matters communicated orally cannot be proven; they can be denied by us in Geneva. Therefore, the Reichswehr Ministry has worked out security directives for the Reich Ministries and the Prussian Ministry of the Interior."

I will skip the next reference. I believe I will skip over to the Affidavit of Dr. Frick, on page 60. The Affidavit of Dr. Wilhelm Frick.

THE PRESIDENT: What is that?

COLONEL STOREY: It is Document, if your Honor please, 2186. Document 2186-PS. It is document U.S. Exhibit 409. The original Affidavit, signed by the Defendant Frick. I believe Dr. Frick sums up pretty well how the work was carried on.

"I, Wilhelm Frick, being first duly sworn, depose and say:

I was Plenipotentiary for Reich Administration from the time when this office was created, until

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the 20 August 1943. Henirich Himmler was my deputy in this capacity. Before the outbreak of the war my task as plenipotentiary for Reich Administration was the preparation of organization in the event of war, such as, for instance, the appointment of liaison men in the different ministries who would keep in touch with me. As Plenipotentiary for Reich Administration, I, together with the Plenipotentiary for Economy and OKW formed what was called a "3-Man College". We also were members of the Reich Defense Council, which was supposed to plan preparations and decrees in case of war, which later on were published by the Ministerial Council for the Defense of the Reich. Since, as soon as the war started, everything had to be done speedily and there would have been no time for planning, such measures and decrees were prepared in advance in case of war. All one then still had to do was to pull out of the drawer the war orders that had been prepared. Later on, after the outbreak of the war, these decrees were enacted by the Ministerial Council for the Defense of the Reich."

Signed and sworn to by Dr. Wilhelm Frick, on the 19th of November, 1945.

To sum up this phase of the proof, the Cabinet by its own decision and its own laws, created a large war-planning body - The Reich Defense Council - the members of which were taken from the cabinet. Within the council they set up a small working committee, again composed of cabinet members and certain defense officials, a majority of whom were appointed from the cabinet members. To streamline the action, they placed all of its ministries - except Air, Propaganda and Foreign Affairs, into the groups headed respectively by the Plenipotentiaries for Economy and Administration, and the OKW, and everything was organized in and for the greatest secrecy.

That is this 3-Man College.

Now, in conclusion, if your Honor please, I would like at this time to summarize briefly the proof concerning the Reichsregierung.

From 1933 to the end of the war, the Reichsregierung comprised the dominant body of influence and leadership below Hitler in the Nazi Government. The three sub-divisions were included in the term "Reichsregierung" in the indictment: the ordinary cabinet, the secret cabinet and the Council of Ministers for the Defense of the Reich. Yet, in reality, there existed

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only an artificial, illusory boundry between the three.

The predominant sub-division was, of course, the ordinary Cabinet, which was commonly referred to as the Reichsregierung.

In it, were the leading political and military figures in the Nazi Government. 17 of the 22 defendants before this Tribunal were integral parts of the ordinary Cabinet.

I should like now to name these defendants and to indicate the positions they held in the Reichsregierung.

MARTIN BORMANN, Leader of the Party Chancellery.

KARL DOENITZ, Commander-in-chief of the Navy.

HANS FRANK, Reich Minister without portfolio.

WILHELM FRICK, Minister of the Interior, Plenipotentiary for Reich Administration, Reich Minister without Portfolio.

WALTER FUNK, Minister of Economics, Plenipotentiary for Economy.

HERMAN GOERING, Minister for Air, Reich Forest Master.

RUDOLF HESS, Deputy of the Fuehrer.

WILHELM KEITEL, Chief of the OKW.

CONSTANTIN U. K. von NEURATH, Minister of Foreign Affairs, President of the Secret Cabinet Council.

FRANZ von PAPEN, Vice Chancellor.

ERICH RAEDER, Commander-in-chief of the Navy.

JOACHIM von RIBBENTROP, Minister for Foreign Affairs.

ALFRED ROSENBERG, Minister of the occupied eastern territories.

HJALMAR SCHACHT, Acting Minister of Economics, Reich Minister without portfolio, President of the Reichsbank, Plenipotentiary for Economy.

BALDUR von SCHIRACH, Reich Youth Leader.

ARTHUR SEYSS-INQUART, Reich Minister without portfolio.

And finally,

ALBERT SPEER, Minister for Armaments and War production.

From the ordinary Cabinet, there came not only the members of the secret cabinet council and the council of Ministers for the Defense of the Reich, but also the members of the War Planning Group, the Nazi Secret Reich Defense Council. When it was deemed essential for the purposes of the conspiracy to wage aggressive war, that power was concentrated in a few indiv-

iduals. Again, these individuals were drawn from the ordinary Cabinet. Thus, the Plenipotentiary for Economy and Administration were also Ministers of the ordinary Cabinet, and they were also members of the Reich Defense Council and Ministerial Council.

Under them were grouped practically all the Ministers of the ordinary Cabinet.

Where political considerations of foreign policy required that another select group be chosen to act as advisors, the Secret Cabinet was created and populated with members of the ordinary Cabinet.

The Reichsregierung was dominated by the Nazi Party through the control exercised over its legislation by the Deputy of the Fuehrer, Hess, and later, by the Leader of the Party Chancellery, Bormann. Party control was also effected through individual membership of all members and the union of various key cabinet and party positions in one man. As a result of this fusion

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of the Party and State, an enormous concentration of political power was gathered into the Cabinet.

The laws enacted by the Cabinet established the frameworth within which the Nazi conspirators established their control of Germany, set forth in Count One of the Indictment, by virtue of which they were enabled to commit the crimes alleged in Counts One, Two, Three and Four of the Indictment. The Cabinet enacted harsh penal laws, discriminatory laws, confiscatory laws, in violation of the principles of justice and humanity. Decrees enacted by the Ministerial Council during the War, clothed the criminal acts of the Nazi conspirators with a semblance of legality. As an instrument of the Party, the Cabinet effectively implemented the notorious points of the party program. Finally, the Cabinet, almost immediately upon the coming into power of Hitler, became a wa-planning group through its establishment in 1933 of a Reich Defense Council, and its active participation in the schemes and plans for waging aggressive war.

It is therefore respectfully submitted that by virtue of all the foregoing, the Reichsregierung, as definted in Appendix D, page 35, of the Indictment, should be declared a criminal group within the meaning of Article 9 of Section II of the Charter.

That concludes, if your Honor please, this presentation and the next subject is the SA.

It will take just about a couple of minutes to be ready for that.

May it please the Tribunal, I passed up document Book "Y", which contains the English translations of the documents relied upon in this presentation.

The organization which I shall now present for your consideration is the Sturmabteilung, the organization which the world remembers as the "Brown Shirts" or "Storm Troops", the gangsters of the early days of Nazi terrorism. It came to be known in later years as the SA, and I shall refer to it in that manner in the course of my presentation.

The SA was the first of the organizations conceived and created by the Nazis as the instrument and weapon to effectuate their evil objectives, and it occupied a place of perculiar and significant

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importance in the scheme of the conspirators. Unlike some of the other organizations, the functions of the SA were not fixed or static. On the contrary, it was an agency adapted to many designs and purposes; and its role in the conspiracy changed from time to time -- always corresponding with the progression of the conspiracy through its various phases towards the final objective -- abrogation of the Versailles Treaty and acquisition of the territory of other peoples and nations. If we might consider this conspiracy as a pattern, with its various parts fitting together like the pieces of a jig-saw puzzle, we would find that the piece representing the SA constituted a link in the pattern vitally necessary to the presentation and development of the entire picture.

The SA participated in the conspiracy as a distinct and separate unit, having a legal character of its own. This is shown by Document 1725-PS, which is tabbed in the document book, of which the Court will take judicial notice. It's an Ordinance passed in March 1935, Reichsgesetzblatt, Part 1, page 502. It declares that the SA and certain other agencies were thereafter to be considered "components" of the Nazi Party. This Ordinance further provided in Article 5 -- and it's on the second page of the English translation, right after the word "Article 5" - I quote:

"The affiliated organizations can possess their own legal character."

Similarly, the organization book of the Nazi party characterizes the SA as an "entity". Document 3220-PS, which I now offer, is an excerpt from the 1943 edition of the Organization Book, page 358 of the original, and I quote from the English translation. It is there declared:

"The Fuehrer prescribes the law of conduct, and commands its use. The Chief of Staff represents the SA as a complete entity on the mandate of the Fuehrer."

The evidence which I will discuss in the course of this presentation:

THE PRESIDENT: I thought you were reciting 320.

COLONEL STOREY: 3220, Your Honor.

THE PRESIDENT: Yes. Di you read from that? That begins in my copy -

COLONEL STOREY: It's down at the bottom, if Your Honor please, on

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the first page of the English translation, the second sentence from the bottom, which I have quoted:

"The Fuehrer prescribes the law of conduct, and commands its use. The Chief of Staff represents the SA as a complete entity on the mandate of the Fuehrer."

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I'm sure the evidence will demonstrate and characterize the SA as an entity and an organization having a legal character of its own. This evidence will show that while SA was composed of many individual members, these members acted collectively and cohesively as a unit. They were closely bound and associated together by many common factors, including: uniform membership standards and disciplinary regulations; a common and distinctive uniform; common aims and objectives; common activities, duties, and responsibilities, and -- probably the most important factor of all--a fanatical adherence to the philosophies and ideologies conceived by the Nazi conspirators.

This is partially demonstrated by Document No. 2354-PS, which again is simply an excerpt from the Organization Book of the Nazi Party. It is found on page 7 of the English translation. It provides that membership in the SA was voluntary but that the SA man should withdraw if

> "he can no longer agree with SA views or if he is not in a position to fulfill completely the duties imposed upon him as a member of the SA."

The SA man was well schooled in the philosophies, attitudes and activities which he was expected and required to adopt and reflect in his daily life. Cohesion of thought and uniformity of action with respect to such matters was in part obtained by the publication and distribution of a weekly periodical entitled "Der SA-Mann", simply means the SA man. This publication was principally devoted to the creation and fostering of the various aspects of Nazi ideology which constituted the doctrinal motives of many of the conspirators.

May I digress from my text and say to the Tribunal that we have here on the table all of these publications, beginning with the year 1934, up through and including the year 1939, the official weekly newspaper entitled "Der SA-Mann", meaning the SA man, published in Munich, had wide distribution and was on sale at news stands and distributed throughout Germany and occupied countries.

In addition, "Der SA-Mann" served to report upon and document the

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activities of the SA as an organization, and those of its constituent groups. I shall have occasion at a later point to refer to certain portions of this publication for the consideration of the Tribunal.

The general organizational arrangement or plan of the SA will be demonstrated to the Tribunal by the documents which shall subsequently appear. At this point I may say simply that this proof will show that the SA developed from scattered bands of street ruffians to a well-knit cohesive unit organized on a military basis, with military training and military functions, and, above all, with an aggressive, militaristic and warlike spirit and philosophy. The organization extended throughout the entire Reich territory and was organized vertically into local groups and divisions. Horizontally, there were special units including military, cavalry, communications, engineer, and medical units. Your Honor will observe the chart that I will introduce officially a little later on the wall. Coordination of these various groups and branches was strictly maintained by the SA Headquarters and operational offices, and those offices were located in Munich.

The relationship between SA and NSDAP is the next subject.

The case against the SA is a strong one and its basis or foundation consists of its significant and peculiar relationship and affiliation with the Nazi Party and the principal conspirators.

It is submitted that a relationship or association among the alleged conspirators constitutes important and convincing evidence of their joint participation in an established conspiracy; and this principle is particularly applicable because the affiliation between the SA and the Nazi leaders was closely maintained and adhered to and was adopted to the purpose of enabling the conspirators to employ the SA for any use or activity which might be necessary in the course of effectuating the objectives of the conspiracy.

This we find that the SA wasin fact, conceived and created by Hitler himself, in the year 1921 at the very inception of the onnspiracy.

Hitler retained direction of the SA throughout the period of the conspiracy, delegating the responsibility for its leadership to a Chief

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of Staff. Hitler, in fact, was often known throughout Germany as Osaf, or Oberster SA Fuehrer, or translated, meaning the highest SA Fuehrer.

The Defendant Goering was an early member of the SA and he maintained a close affiliation with it throughout the course of the conspiracy.

The Defendant Hess participated in many of the early battles of the SA and was a leader of an SA group in Munich.

The Defendants, Frank, Streicher, von Shirach, and Sauckel, each held a position of Obergruppenfuehrer in the SA, a position corresponding to the rank of Lieutenant-General; and the Defendant Bormann was a member of the Staff of the SA High Command.

The close relationship between the SA and the leaders of the Nazi Party i

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demonstrated by the fact that the Hoheitstraeger of the Nazi Leadership Corps were authorized to call upon the SA for assistance in carrying out particular phases of the Party program. This was established yesterday by Document 1893-PS, which your Honors will recall I quoted from a number of times in connection with the presentation of the Leadership Corps. It was declared in that excerpt, page 11 of the English translation, as your Honors will recall, that the Hoheitstraeger were empowered to call upon the SA for the execution of political missions connected with the movement. This responsibility of the SA to the Party is also shown by Document 2383-PS, which is an ordinance for the execution of the Hitler decree, which I now offer in evidence as U.S.A. Exhibit 410. I quote from page 3 of the English translation.

THE PRESIDENT: What is the PS number?

COL. STOREY: 2383. If your Honors will turn to page 3 of the English translation, it is the third and fourth paragraphs on page 3 -- it is the fourth paragraph, I beg your pardon.

"The formations of the NSDAP, with exception of the SS, for whom special provisions apply, are subordinated to the sovereign bearer (Hoheitstraeger) politically and in respect to commitments. Responsibility for the leadership of the units rests in the hands of the unit leader."

It was in accordance with such authority, as was proved yesterday in the Leadership Corps presentation, that the SA was used in the seizure of trade union properties.

In addition, the SA demonstrated its close affiliation to the Nazi Party by participating in various ways in election proceedings. This is shown in Document 2168-PS, which is a pamphlet entitled "The SA", which is U.S.A. Exhibit 411, and this pamphlet depicts the history and general activities of the SA, written by an SA Sturmfuehrer named Bayer, upon orders from SA Headquarters. In that pamphlet, and I quote on page 4 of the English translation, down towards the bottom of the page, the last paragraph, beginning on line 3:

"At the foremost front the labor and struggle of the SA was not in vain. They stood at the foremost front of election fights."

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THE PRESIDENT: I am sorry, will you tell me which page?

COL. STOREY: It is page 4 of the English translation, I beg your pardon, Document 2168, down at the last paragraph, if your Honor please, beginning at the third line:

"The labor and the struggle of the SA was not in vain. They stood at the foremost front of election fights."

Adolf Hitler, himself, on the 2nd of September, 1930, took over the leadership of the SA as the Supreme SA Fuehrer. He himself guided his SA in the fateful election fight of the year 1930.

Further evidence of the interest and participation of Nazi leaders in the activities of the SA is to be found in these five bound volumes, which consist of the issues of the SA newspaper, "Der SA-Mann", from the year 1934 to 1939 inclusive, and I should like, at this time, to ask that each of these bound volumes be marked for identification because each of them will be referred to from time to time during this presentation. They will begin with U.S.A. Exhibit 414, 415, 416, 417 and 418 and they are referred to by appropriate document numbers, which I will refer to when the quoted portions come in the English translation.

Throughout these volumes there appear photographs portraying the participation of Nazi leaders in SA activities. I should like, at this time, to describe a few of the photographs and I will indicate the page numbers upon which they appear.

If your Honor please, we set out a number of these photographs but I should like, at this time, to exhibit to the Tribunal and pass into evidence, one of the photographs appearing in the January 1937 issue, and it is a photograph of Goering at the ceremonies held upon the occasion of his being made Obergruppenfuehrer of the Feldherrnhalle Regiment of the SA, on the 23 of January, 1937, and we offer in evidence the photograph and the page of the newspaper. We will pass it up to your Honors if you would like to see it. We offer it in evidence.

Here is another photograph of Goering, leading the Feldherrnhalle Regiment of the SA in parade on the 18 of September, 1937, shown at page 3. The other photograph was at page 23 of the January 1937 edition of the SA.

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I call the attention of your Honors to a few of the other photographs that appear. Here is a photograph of Hitler greeting Huhnlein, bearing the caption: "The Fuehrer Greets Corps Fuehrer Huhnlein at the opening of the International Automobile Fair - 1935." That is dated the 23 of March 1935, at page 6.

Here is another photograph of Himmler and Huhnlein, who was the Fuehrer of the NSKK and Lutze, who was Chief of Staff of the SA, bearing the caption "They lead the soldiers of National Socialism", on the 15 of June, 1935, page 1.

Another photograph of Hitler at an SA ceremony, carrying the SA battle flag, and the picture bears the caption, "As in the fighting years the Fuehrer, on Party Day of Freedom, dedicates the new regiments with the Blood Banner"; 21 September, 1935, page 4.

I pass on. Here is a photograph of Goering in the SA uniform, reviewing SA marching troops, under the caption, "Honor Day of the SA", 21 September, 1935, page 3.

THE PRESIDENT: Colonel Storey, is there any doubt that Hitler and Goering were members of the SA?

COL. STOREY: No, sir, but the purpose in showing those photographs,

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if your Honor please, was to show the military character of the SA. If there is no question about it and it is cumulative, then I will pass on.

The work of the SA did not end with the seizure by the Nazis of the German Government, but affiliation between the SA and the Nazi leaders was continued after the acquisition by the Nazis of the control of the German State. The importance of the SA in connection with the Nazi Government and control of Germany is shown by the law of December 1, 1933. I have already referred to that, that is the union of Party and State. However, there is one paragraph that has not been quoted before, if your Honor please, and I would like to call your Honor's attention to it. It is our Document 1395-PS, and it appears in the English translation on page 1 and I quote Article 2.

"The Deputy of the Fuehrer and the Chief of Staff of SA become members of the Reich Government in order to insure close cooperation of the offices of the Party and SA with the public authorities.

Similarly, in Document 2383, which I referred to a moment ago--I will simply refer to it; that is 2383, page 11, the last paragraph: Party and State offices must support the SA in this training effort and evaluate the certificate of possession of the SA defense insignia accordingly.

That the Nazis at all times possessed complete control of the SA is shown by the so-called "Roehm Purge" of June 1934. Evidence concerning this matter is to be found in the Voelkischer Beobachter of 1 July, 1934, at page 1. I will not quote from that.

Roehm had been Chief of Staff of the SA for several years, and was responsible for the development of the SA into a powerful organization with definite programs and objectives.

Members of the SA were required to take a personal oath of fidelity to him. But when his policies conflicted with those of the Nazi leaders, he was removed and murdered, and was replaced by Victor Lutze. This drastic action was accomplished without revolt or dissension in the ranks of the SA, and with no change in the objectives or program

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of the organization. The SA remained "a reliable and strong part of the National Socialist movement"--and I am quoting; this is Document 2407, the English translation of the Voelkischer Beobachter. It is the last paragraph in the English translation, just above the name "Adolf Hitler." I will say for the translators that the quotation is included in our text, if we might go on.

I quote: "It is my wish that the SA be built up as a reliable and strong part of the National Socialist movement, full of obedience and blind discipline. They must help to create and form the new German citizens."

The importance of the SA in the Nazi plan for the utilization of the people of Germany is shown in Hitler's pronouncement; "The Course for the German Person." This appears in the issue of "Der SA-Mann", of the 5th of September, 1936, at page 22. It is our document 3050-PS, and it is at page 29 of the English translation; page 29, of Document 3050-PS, the paragraph in the middle of the page, and I quote:

"The boy, he will enter the Young Volk, and the lad, he will enter the Hitler Youth, the young man will go into the SA, in the SS, and in other units, and the SA and SS men will one day enter into the labor service

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and from there to the Army, and the soldier of the Volk will return again into the organization of the movement, the Party, in the SA and SS, and never again will our Volk decay as it once was decayed."

And so we see that at all times during the conspiracy the relationship between the SA and the Nazi Party was such that the SA was constantly available to the conspirators as an instrument to further their aims. The SA was created by the conspirators at the inception of the Nazi movement. It was at all times subject to the direction of Adolf Hitler. Seven of the defendants held positions of leadership and responsibility in the organization, and at all times the SA was subject to the call of the Hoheitstraeger. The SA stood at the forefront of the election fights, and cooperation between the offices of the Party, of the SA, and of the State was assured by law.

And it was declared by Victor Lutze, the former Chief of Staff of the SA, in a pamphlet entitled "The Nature and Tasks of the SA" - and it is our Document No. 2471-PS. We offer the original in evidence as USA Exhibit 413, and I quote from the top of page 1 of the English translation of 2471. I believe I will read that whole paragraph, the first paragraph at the top of the page:

"Before touching the real subject matter, I must tell you first in order to clear up any uncertainty about my own position, that I never speak primarily as a member of the SA but as a National Socialist, since the SA cannot be independent of the National Socialist movement but can only exist as a part of it."

I should next like to present to the Tribunal evidence which will demonstrate the principal functions and activities performed by the SA pursuant to the relationship which I have described above and in furtherance of the objectives of the conspiracy. These activities may be logically classified or divided into four distinct phases or aspects, each of which, I might add, corresponds with a particular phase in the progression of the conspiracy toward the objectives alleged in the Indictment.

The first phase consists of the use of the SA and its members as

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the instrument for the dissemination of ideology and fanaticism of the Nazis throughout Germany. The employment of the SA for this purpose continued throughout the entire period of the conspiracy as will, I am sure, be apparent from the evidence.

The second phase relates to the period prior to the Nazi seizure of power. During this period the SA was a militant and aggressive group of fighters or gangsters.

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whose function was to combat, physically and violently all opponents of the Party.

The third phase relates to the period of several years following the Nazi seizure of power. During this period the SA participated in various measures designed to consolidate the control of the Nazis, including such Nazi inspired programs as the dissolution of the trade unions, the persecution of the church, and the Jewish persecutions, to which I have already aluded. During this period they continued to serve as a force of political soldiers whose purpose was to physically combat members of political parties which were considered hostile or opposed to the Nazi Party.

The fourth aspect of SA activities consisted of its employment as an agency for the building up of an armed force in Germany in violation of the Treaty of Versailles, and for the preparation of the youth of Germany -- mentally and physically -- for the waging of an aggressive war.

I should like now to discuss what I consider the highlights of the evidence relating to these four phases.

The first phase is in connection with the dissemination of ideology.

The first function of the SA consisted of its responsibility to disseminate the doctrines and ideologies, acceptance of which was necessary for the fulfulment of the Nazi objectives. From the very start the Nazi leaders emphasized the importance of this mission. During the course of the conspiracy the SA undertook many duties and responsibilitie but one responsibility which remained constant throughout was that of being propagandist of the National Socialist idology.

I now refer, Your Honors, to the English translation of Document 276C, which is an excerpt from "Mein Kampf", and it is shown at page 5 of the translation of the document. This is the third paragraph on page 5 of the document, and I quote:

"As the directing idea for the inner training of the Sturmabteilung,

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the intention was always dominant, aside from all physical education, to teach it to be the unshakeable convinced defender of the National Socialist idea."

I might add that Hitler's pronouncement as to the function of the SA in this respect became, in effect, the guiding principle of SA members, for Mein Kampf was taken to express the basic philosophy of the SA.

In Document No. 2354-PS, which is an excerpt from the Organization Book of the Party, at page 1, of the English translation -- it is quoted in the text, and I quote paragraph 1:

"Education and training, according to the doctrines and aims of the Fuehrer as they are set down in Mein Kampt and in the Party program, for all phases of our living and of our National Socialist ideology".

This same document -- the Organization Book of the Party -- refers to the SA's function as the propagandist of the Party.

I believe the next one, if Your Honor please, would simply be cumulative of what we have already referred to.

THE PRESIDENT: Perhaps this would be a convenient time to break off.

COLONEL STOREY: All right, sir.

(Whereupon at 1700 hours the hearing of the Tribunal adjourned to reconvene on 19 December 1945 at 1000 hours.)